INDEX TO PETITION FOR REHEARING

	Page
Reasons for Granting Hearing	2
1. Petitioners' Constitutional Rights Have Been Violated Because Evidence In Their Favor Has Been Suppressed in Court Proceedings	2
2. The Tenth Circuit Erred in Affirming the Dismissal by the United States District Court for the District of Kansas In That Petitioners Rights Have Been Violated in Court Proceedings and There is Jurisdiction	3
3. Petitioners Should be Granted a Rehearing Because of the National Importance of This Case and the Three Related Cases That Have Been *Prejudged*	12
Conclusion	18

CITATIONS

CASES:

Harry Pyle v. State of Kansas, 317 U.S. 213	3
Case No. 490 Samuel H. Sheppard vs. E. L. Maxwell	17
Case No. 794 Hoffa v. United States	17, 18

STATUTES:

28 U.S.C. 144	17
14th Amendment of the Constitution	3, 11, 34a, 49a, 50a, 51a, 62a

INDEX TO APPENDICES

Page

A—Order of Dismissal of August 31, 1959 ..... 1a

B—Letter of Nov. 4, 1958 About Litigation 3a

C—Letter of Nov. 27, 1958 About Litigation 4a

D—Letter of March 9, 1966 About Recording of Certificate of Title 5a

E—Telegram of March 7, 1966 About Settlement of Estate 7a

F—Letter of March 11, 1966 About Recording of Certificate of Title 8a

G—Per Curiam Opinion of Tenth Circuit 9a

H—Brief for the Appellees—Collins, Hughes, Martin, Pringle, Schell 12a

I—Brief of Appellee Socony Mobil Oil Company, Inc. 20a

J—Brief for the Appellants 26a

K—Appellants' Petition for Rehearing in Tenth Circuit 38a

L—Answer of Defendant Socony Mobil Oil Company, Inc.—Civil Action No. W-3239 ..... 54a

M—Letter of Nov. 18, 1965 About Record of Proceedings in Tenth Circuit 58a

N—Letter of Dec. 28, 1965 About Original Transcript of Record on Appeal 59a

O—Transcript of Anna Knoll's Statement Before Court on Aug. 28, 1964 ..... 60a

P—Letter of April 2, 1965 About Appendix O 64a

Q—Letter of April 5, 1965 About Appendix O 65a

R—Letter of Feb. 17, 1964 Regarding Funds Held in Suspense 66a

S—Complaint in Civil Action No. W-3363 ..... 67a

T—Answer of National Cooperative in W-3363 with Division Order Attached 73a

U—Letter of Sept. 14, 1965 ..... 77a

Answer of Empire Drilling Co. in W-3362 ..... 78a

Lease for Northeast Quarter—1951 ..... 85a

V—Affidavit of Feb. 28, 1966 ..... 87a

IN THE

Supreme Court of the United States

OCTOBER TERM, 1965

No. 862

ANNA KNOLL AND ROSE KELLER, *Petitioners*

v.

ALEX KNOLL, JOSEPHINE KNOLL, JOE KNOLL, ADAM KNOLL, WENDELIN KNOLL, MARY BITTEL, ADOLPH KNOLL, STEPHANIE KNOLL, MARGARET SLUGA, CASEY JONES, MOBIL OIL COMPANY, *Respondents*

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Tenth Circuit

---

PETITION FOR REHEARING

Petitioners Anna Knoll and Rose Keller hereby apply for a rehearing of the Order of this Court, dated February 21, 1966, denying their petition for a writ of certiorari to review the judgment of the Court of Appeals for the Tenth Circuit, which affirmed the dismissal action of the United States District Court for the District of Kansas for a want of federal jurisdiction.

REASONS FOR GRANTING REHEARING

The case of petitioners for which they are asking this Court to grant a rehearing involves Constitutional issues comparable in importance to cases now before the Supreme Court of the United States and other cases that have already been decided by the Supreme Court of the United States.

Petitioners represent one of the most helpless classes of people throughout the United States. They have *not* been able to realize justice with respect to the rights guaranteed to them under the Constitution in getting their inheritance in that they are lacking in legal sophistication, have very limited funds, and are greatly outnumbered by their opponents, while their opponents are represented by a battery of the most experienced lawyers having extensive facilities and funds. Since petitioners are *not* lawyers they lacked the necessary legal sophistication to protect their inheritance interest down through the years when evidence in favor of petitioners was suppressed. As a consequence petitioners have *not* received a cent of benefit from their mother's estate even though their other brothers and sisters and many others have benefitted from their mother's estate for many years to petitioners prejudice.

1. Petitioners' Constitutional Rights Have Been Violated Because Evidence in Their Favor Has Been Suppressed in Court Proceedings

Petitioners are using exhibits to support their statements in this petition because of the manner in which evidence in their favor has been suppressed in court proceedings relating to their parents estate. This was done to deprive petitioners of their undivided one-ninth

inheritance interest in fee simple each of the petitioners have in their mothers 320-acre farm. The Constitutional rights of petitioners have been violated in that evidence in their favor has been suppressed in court proceedings, as was done in the case entitled *Harry Pyle* v. *State of Kansas,* 317 U.S. 213. Harry Pyle did *not* get the equal protection of the law in Kansas guaranteed to him by the 14th amendment of the Constitution of the United States until his case was reviewed by the Supreme Court of the United States.

Petitioners' inheritance interests in Kansas have been prejudiced through the combined efforts of their many opponents to such an extent that they are *not* able to get a lawyer that can practice in the courts of Kansas that will help them get their valuable inheritance in Kansas, which includes royalty interests from oil being produced from about 13 oil wells. As a consequence petitioners are in the same predicament as those who are denied counsel in that petitioners lack the necessary legal sophistication required to protect their inheritance interests when their opponents suppress evidence in favor of petitioners.

2. The Tenth Circuit Erred in Affirming the Dismissal by the United States District Court for the District of Kansas in That Petitioners' Constitutional Rights Have Been Violated in Court Proceedings and There Is Jurisdiction

The Tenth Circuit erred in affirming the dismissal action by the United States District Court for the District of Kansas of petitioners' complaint for lack of jurisdiction in that the Tenth Circuit affirmed the decision of a biased judge who prepared a biased twenty-page memorandum of opinion. This was done to keep in effect a *void* Order of Dismissal filed August 31, 1959, to *petitioners' prejudice,* signed by his prede-

cessor, Judge Delmas C. Hill, who is now a Tenth Circuit Judge. This Order of Dismissal is reproduced as *Appendix A* on pages 1a-2a.

The aforementioned Order of Dismissal is void in that it relates to royalty conveyances with regard to the Rose Knoll estate in which petitioners now have and have always had as much inheritance interest in fee simple as respondent Alex Knoll. It is unconstitutional to use a federal court order to make it appear as if respondent Alex Knoll were conveying an interest that does not belong to him and thereby depriving petitioners of their inheritance interests.

The parties named in the Order of Dismissal have *not* settled their differences as stated in the Order of Dismissal in that petitioners did *not* get their inheritance as decreed in a November 15, 1957 Decree of Descent. The Order of Dismissal does *not* refer to James O. McVey, a Hill City lawyer, that posed as a family mediator so he could help to trick petitioners into signing the agreement referred to in that Order of Dismissal. James O. McVey also helped to trick petitioners into signing deeds to Alex Knoll in July 1959 that are *not* mentioned in that Order of Dismissal. This was done to deprive petitioners of their inheritance and thereby to remove the cloud from respondent Alex Knoll's title in that respondent Socony Mobil was purchasing the oil produced from the subject matter of this controversy on the basis of Alex Knoll's "color of title."

This Order of Dismissal is being used to discriminate against petitioners who have *not* received a cent of benefit from the Rose Knoll estate while the other heirs of Rose Knoll and others are enriching them-

selves from this estate, as they have been doing since their mother's death on December 13, 1941.

Petitioners did *not* get proper legal counsel from James R. Barr, who signed as petitioners' attorney on the aforementioned Order of Dismissal, nor from Mr. Alvin G. Brooks in that both were informants to petitioners opponents and for that reason Mr. James R. Barr named only one of petitioners opponents as a defendant. This was done so that this one defendant would be in a better position to work with all of petitioners opponents to petitioners prejudice. At that time petitioners did not realize that they had so many opponents. Petitioners did not realize until the summer of 1962 that respondent Margaret Sluga, who is named as one of the plaintiffs in this Order of Dismissal, invaded petitioners privacy while petitioners consulted Mr. James R. Barr of Wichita, Kansas and Mr. Alvin G. Brooks of Evanston, Illinois so Margaret Sluga could help petitioners' opponents deprive petitioners of their inheritance.

Petitioners had never heard about these two lawyers prior to consulting them about their inheritance in 1958. Mr. Brooks of Illinois, who was recommended to Rose Keller by an Illinois acquaintance, arranged an appointment for Rose Keller with Mr. Barr's law firm at Wichita, Kansas in November 1958. After consulting with Mr. Barr, who was assigned the case, petitioner Rose Keller paid Mr. Barr a retainer fee to help her get her inheritance. Rose Keller did not realize that she was *not* getting proper legal advice from either of these lawyers in that Rose Keller was so utterly lacking in legal sophistication at that time that she had to rely entirely on lawyers for legal ad-

vice. Correspondence written by Alvin G. Brooks to Mr. Barr's law firm that led Rose Keller to believe that litigation was necessary to get her inheritance is reproduced as *Appendix B* on page 3a and as *Appendix C* on page 4a.

Petitioners did not know about this August 31, 1959 Order of Dismissal until a year later because they were not sent a copy of this Order of Dismissal by Mr. James R. Barr and were not told about this Order of Dismissal either by Mr. Barr or Mr. Brooks. Therefore petitioners did not know about this Order of Dismissal until about September 1960 after they made a special trip to Wichita to find out for themselves what had been filed in the United States District Court for the District of Kansas. The filing of an Order of Dismissal to *petitioners' prejudice without their knowledge* is clearly a denial of due process in violation of the fourteenth amendment of the Constitution and a violation of a lawyer's fiduciary relationship with a client.

Petitioner Anna Knoll sent a letter dated March 9, 1966 to the County Clerk of Graham County, Kansas to get her certificate of title recorded which she already had at the time the aforementioned 1959 litigation was filed by Mr. Barr. She did this in that she now has and has always had as much inheritance interest in her mother's estate as Alex Knoll and any of the other Knoll heirs, and in that Mr. Barr did *not* even make an attempt to get petitioners' certificates of title recorded. Instead Mr. Barr helped to trick petitioners into signing deeds to Alex Knoll that weren't even discussed with petitioners and then refused to help petitioners when they appealed to him for help. Petitioner Anna Knoll's letter of March 9, 1966 to the

County Clerk of Graham County, Kansas is reproduced as *Appendix D* on page 5a, and Adam Knoll's Western Union telegram of March 7, 1966 that she used as one of the enclosures to this letter as *Appendix E* on page 7a.

Petitioner Anna Knoll did not know whether Adam Knoll was acting in good faith when he sent her this telegram in that there has been a complete extraction of family ties and in that he has been helping to deprive petitioners of their inheritance down through the years. Petitioner Anna Knoll was merely using this telegram to give him and the other Knoll heirs the opportunity to carry into effect what she thought he implied in this telegram about wanting to get their mother's estate settled. The McVey referred to in Adam Knoll's telegram of March 7, 1966 is a Hill City lawyer that posed as a family mediator when petitioners were tricked into negotiating the aforementioned agreement that was to petitioners prejudice. Petitioners do *not* know why Adam Knoll even mentioned McVey in this telegram in that all the Knoll heirs know that there has never been a lawful disposition of petitioners inheritance and that petitioners are therefore entitled to their inheritance just like the rest of the Knoll heirs.

The County Clerk of Graham County, Kansas refused to record Anna Knoll's certificate of title and informed petitioner Anna Knoll to this effect by letter dated March 11, 1966. This County Clerk's answer is no basis for refusing to record Anna Knoll's certificate of title in that Anna Knoll now has and has always had as much inheritance interest in her mother's estate as Alex Knoll and any of the other

Knoll heirs. The County Clerk's answer merely reveals all the discrepancies that exist on matters relating to the Rose Knoll estate to deprive petitioners of their inheritance. The *three* annual tax statements that are sent to petitioners on petitioners royalty interest being held in suspense by Socony Mobil reveal that no Knoll heir has a valid deed in that only one of these three tax statements is identified with the name of Alex Knoll. The March 11, 1966 letter of the County Clerk of Graham County, Kansas to Anna Knoll is reproduced as *Appendix F* on page 8a.

Petitioner Anna Knoll made a special trip to the Supreme Court of the United States on February 23, 1966 to check the records on file in this case in that petitioners still did not know on what basis the Tenth Circuit rendered its per curiam opinion in view of the 10-page printed brief and other data petitioners presented to the Tenth Circuit, and the 37-page and 4-page printed reply briefs filed by their opponents, and in that petitioners did *not* know on what basis their 14-page petition for rehearing was denied by the Tenth Circuit. Petitioners wish to emphasize that *two* separate and distinct reply briefs were filed by their opponents in the *Tenth Circuit, but that their opponents filed only one reply brief in the case before this Court. Petitioners also wish to emphasize that their opponents were represented by a battery of lawyers* and that petitioners were representing themselves because their inheritance interests had been prejudiced to such an extent that they could *not* find a Kansas lawyer that would help them get their inheritance.

The names of the twenty-six lawyers that appeared on the *two* separate and distinct briefs filed by their

opponents in the Tenth Circuit are listed on pages 9a-10a of *Appendix G*. This appendix is a copy of the Per Curiam Opinion of the United States Court of Appeals for the Tenth Circuit, 350 F. 2d 407 (1965).

The 37-page brief presented to the Tenth Circuit by petitioners' opponents is reproduced as *Appendix H* on page 12a, and the other brief presented to the Tenth Circuit by petitioners opponents is reproduced as *Appendix I* on page 20a.

Petitioners ten-page brief is reproduced as *Appendix J* on page 26a and their 14-page petition for rehearing is reproduced as *Appendix K* on page 38a.

Petitioners did not have an appendix in the aforementioned 10-page brief; however they included an appendix in the aforementioned petition for rehearing because the aforementioned 37-page brief of their opponents contained an appendix with exhibits that were prejudicial to petitioners and did not include material relating to Socony Mobil that was favorable to petitioners. This 37-page brief did *not* include in the appendix the Answer of Socony Mobil which contains a statement to the effect that Anna Knoll and Rose Keller had been corresponding with Socony Mobil about the discrepancies in their interests since early 1960. The statement to this effect appears an page 54a of *Appendix L*, which is a copy of the aforementioned answer of Socony Mobil.

Petitioner Anna Knoll made the aforementioned trip to the Supreme Court of the United States immediately after she learned that the petition for writ of certiorari had been denied since she wanted to find out what records were sent to this Court by the Deputy

Chief Clerk of the Tenth Circuit with his letter of November 18, 1965 (*Appendix M,* on page 58a). She also wanted to see what records were sent to this Court by the Clerk of the United States District Court for the District of Kansas in his letter of December 28, 1965 (*Appendix N* on page 59a).

During this trip to the Supreme Court of the United States petitioner Anna Knoll discovered that the three aforementioned briefs (the brief filed by petitioners and the two briefs filed by their opponents) had not been forwarded to the Supreme Court of the United States by the Deputy Chief Clerk of the Tenth Circuit.

Petitioner Anna Knoll noted that the records sent to this Court by the Clerk of the United States District Court for the District of Kansas did not include any of the records which showed the returns on Service of Writ. She noted that the transcript of her statement of August 28, 1964, to which she has frequently referred was not shown on the Clerk's index and therefore could easily have been overlooked by anyone reviewing the records listed on this clerks index. She noted that this transcript was covered with the material enumerated in the clerk's index and the clerk's certificate and that the transcript of her statement was hard to read because it was fastened at the top with an acme fastener and bound together on the left side.

Petitioner Anna Knoll mentions these returns on service of writ in that a statement is made on page 3 (*Appendix H* on page 16a) of the aforementioned 37-page brief of her opponents to the effect that proper service had *not* been made on petitioners opponents, and for that reason these should have been included

with the records that were sent to the Tenth Circuit and also to the Supreme Court of the United States.

Petitioner Anna Knoll mentions the aforementioned statement of August 28, 1964 in that her closing statements to the Court were to the effect that she had been deprived of her inheritance without due process of law in violation of the fourteenth amendment of the Constitution and the judge said he would take this into consideration; however she did not find any reference in his memorandum of opinion that indicated that he did take this into account. The pertinent pages of petitioner Anna Knoll's statement of August 28, 1964 are therefore reproduced in *Appendix O* on pages 60a-63a. This statement was transcribed by Ned C. King as shown in *Appendix P* on page 64a and forwarded to the Tenth Circuit in April 1965 as shown in *Appendix Q* on page 65a, which is a letter dated April 5, 1965 written by the Clerk of the United States District Court for the District of Kansas.

Judge Wesley E. Brown released Socony Mobil from liability to petitioners even though Socony Mobil was properly served by a U. S. Marshal and even though Socony Mobil admitted that it had been corresponding with petitioners about their inheritance interests since early 1960. Socony Mobil's liability to petitioners is apparent from the February 17, 1964 letter they wrote to Anna Knoll that was attached as Exhibit N to petitioners complaint in that Socony Mobil made payments to the other Knoll heirs on the basis of Alex Knoll's "color of title" while holding petitioners royalty interest in suspense on the basis of the aforementioned *void* order of dismissal. This February 17, 1964 letter indicates that as of about two years ago $5,734.79 had been held in suspense by Socony Mobil in royalty in-

terest for Anna Knoll. The same amount was held in suspense for Rose Keller. A copy of Socony Mobil's letter of February 17, 1964 is reproduced as *Appendix R* on page 66a.

The Court of Appeals of the Tenth Circuit erred in affirming the dismissal action by the United States District Court for the District of Kansas in that the constitutional rights of petitioners have been violated, in that there is diversity of citizenship between all respondents and petitioner Anna Knoll whose undivided one-ninth inheritance interests do not disturb the rightful share of any of the respondents or any other party, and in that there is diversity of citizenship between Rose Keller and the other *indispensable* parties.

3. Petitioners Should Be Granted a Rehearing Because of the National Importance of This Case and the Three Related Cases That Have Been Prejudged

Petitioners should be granted a rehearing since there is a problem of national importance involved in this case and the three related cases that have been *prejudged* by the same judge that dismissed this case for lack of jurisdiction. This case and the related cases are of importance far beyond the parties and issues involved in that they represent principles and hopes of people throughout the country who are the victims of injustice and very unreasonable harassment, but who nevertheless hope to realize the justice guaranteed to them by the Constitution of the United States.

Socony Mobil did *not* file the three litigations referred to on page 2 of respondents reply brief because Socony Mobil was a mere *stakeholder* as stated in its three complaints. It filed these three interpleader actions because it and many other parties have been

trespassing the inheritance rights of petitioners on the basis of Alex Knoll's "color of title", and for this reason Socony Mobil and the other parties found the interpleader actions an expedient to extricate each other from liability to petitioners. For this reason Socony Mobil kept petitioners preoccupied with these three litigations for about a year after petitioners appealed this case to the Court of Appeals for the Tenth Circuit.

Evidence was suppressed down through the years about the *joint* interests of petitioners five brothers and two sisters until this was revealed in the three litigations filed by Socony Mobil in the early part of 1965 that were already *prejudged* in favor of petitioners opponents. The complaints in these three litigations state in effect that these seven Knoll heirs claim a *joint* 30/32 of 1/8 royalty interest in contrast to the 1/32 of 1/8 royalty interest each of the petitioners are supposed to have. This 1/32 of 1/8 royalty interest is considerably less than the royalty interests of the other seven Knoll heirs as each of the other seven Knoll heirs is getting more than 4/32 of 1/8 royalty interest. *The two transfer orders and one division order that were sent to petitioners in 1959 for signature were sent to them merely to suppress evidence of the actual inheritance interests petitioners have in the Rose Knoll estate. This was done to make it appear as if petitioners were entitled to only 1/32 of 1/8 royalty interest when they are actually entitled to the same royalty interest as any of the other Knoll heirs.*[1] A statement with

[1] The two transfer orders are reproduced in appendix 26 on pages 68a-72a of the petition for writ of certiorari. The division order is reproduced on page 77a of the petition for writ of certiorari.

respect to the *joint* 30/32 of 1/8 royalty interests of petitioners five brothers and sisters is contained in Socony Mobil's complaint in W-3363 reproduced as *Appendix S* see page 71a, paragraph 6.

Socony Mobil has never given petitioners an accounting of royalty interest it has been paying from the oil produced from their mother's estate on the basis of three purported leases, nor has Socony Mobil furnished petitioners any evidence of the sums it is purported to have paid into the registry of the U. S. District Court for the District of Kansas covering oil produced from the Rose Knoll estate. In its brief to the Court of Appeals for the Tenth Circuit, Socony Mobil stated that it paid an aggregate sum of $174,870.25, representing the amount of royalties due. This statement appears in *Appendix I* on page 25a.

This sum of $174,870.25 is the same as the sum of three funds shown in Socony Mobil's three complaints in civil actions No. W-3363, W-3362 and W-3361.

Paragraph four of the aforementioned complaint of Socony Mobil in civil action No. W-3363 (*Appendix S* on page 70a) states in effect that Socony Mobil presently has in its lawful possession a retained fund of $98,964.24 covering the purchase price of oil produced from the SE/4 of the Rose Knoll estate. A similar statement is made in paragraph 4 of the complaint in civil action No. W-3362 with respect to the west half of the northeast quarter of the Rose Knoll estate where the retained fund is shown as $66,222.45 and in the complaint in civil action No. W-3361 with respect to the east half of the northeast quarter of the Rose Knoll estate where the retained fund is shown as $9,683.56.

Evidence relating to the alleged interests in the estate of Rose Knoll other than petitioners brothers and sisters was also suppressed down through the years because these alleged interests are based on Alex Knoll's "color of title". The alleged interests of these other parties were revealed to petitioners in answers filed by them in response to Socony Mobil's three complaints. Some of these answers were sent to petitioners in April 1965 and other answers were not furnished to petitioners until September 1965.

An example of alleged interests revealed to petitioners in answers filed in response to Socony Mobil's complaint is the answer of National Cooperative Refinery Association in civil action No. W-3363. This answer had a division order attached thereto which is purported to be National Cooperative Refinery Association's evidence of having a 248/512 of 7/8 working interest in oil produced from the Southeast quarter of the Rose Knoll estate. This working interest is purported to be effective as of January 30, 1958. The division order on page 75a attached to the aforementioned answer of National Cooperative Refinery Association identifies the lease as 34990—Knoll A. A copy of this answer with division order attached is reproduced as *Appendix T* on page 73a.[2]

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[2] Petitioners tax statements show this southeast quarter of the Rose Knoll estate as being a Knoll A farm and as being under Empire Drilling Company. See Appendices 30 and 31 on pages 83a and 84a of Petition for Writ of Certiorari.

Another division order purported to be effective as of November 14, 1957 was attached to National Cooperative Refinery Association's answer of April 1965 on civil action No. W-3362. This division order is purported to be National Cooperative Refinery Association's evidence of having a 15/32 of 7/8 working interest in the oil produced from the west half of the northeast quarter of the Rose Knoll estate. The lease on that division order is identified as

Empire Drilling Company's answer of April 1965 is another example of interests in the estate of Rose Knoll, other than those of petitioners brothers and sisters, that were suppressed down through the years because these alleged interests are based on Alex Knoll's "color of title." Petitioners were not provided a copy of these answers of April 1965 until September 1965 because they had been prepared by Mr. Robert R. Freeman who made a threat to petitioners about their inheritance interests in a long distance telephone call to Anna Knoll when petitioners appealed this case to the Court of Appeals for the Tenth Circuit. Mr. Freeman's letter of September 14, 1965, the answer of the Empire Drilling Company in civil action No. W-3362, and the lease attached thereto are reproduced as *Appendix U* on pages 78a-86a.

One of the most prejudicial statements made in this answer is with respect to quieting title. See page 84a.

In contrast to the division orders attached to the aforementioned answers of the National Cooperative Refinery Association the two answers of the Empire Drilling Company had copies of two oil leases attached thereto covering the southeast quarter and the northeast quarter of the Rose Knoll estate. These two oil leases were made on the basis of Alex Knoll's "color

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34991—Knoll B. Petitioners tax statements show this part of the Rose Knoll estate as being a Knoll B farm and as also being under Empire Drilling Company.

Petitioners were *not* provided a division order or other document in Socony's three litigations (W-3361, W-3362, W-3363) showing working interests with respect to the east half of the northeast quarter of the Rose Knoll estate. This part of the Rose Knoll estate is identified on petitioners tax statements as being an Alex Knoll farm and as being under J. A. Terteling & Sons, Inc.

of title" in the early 1950's between respondents Alex Knoll and Josephine Knoll and Casey Jones.

Casey Jones, who is an attorney, was fully aware of Alex Knoll's "color of title" and for this reason represented Alex Knoll when the Rose Knoll estate was probated in November 1957 so he could help to prevent petitioners inheritance from going into effect even though a Decree of Descent was issued at that time. Casey Jones has helped to keep petitioners from getting their inheritance in that he was trying to keep the oil leases in effect that he made with Alex Knoll and Josephine Knoll on the basis of Alex Knoll's color of title, and subsequently made assignments and subassignments on the basis of Alex Knoll's "color of title."

Because Judge Wesley E. Brown, *prejudged* the three cases referred to on page 2 of respondents reply brief, petitioner Rose Keller filed an affidavit dated February 15, 1966 so that he would disqualify himself as required by *28 U.S.C. 144.* He *prejudged* these cases in favor of respondent Socony Mobil, respondent Casey Jones, Empire Drilling Company, National Cooperative Refinery Association, J. A. Terteling and Sons, etc. and to the prejudice of petitioners Anna Knoll and Rose Keller. Petitioner Anna Knoll filed an affidavit February 28, 1966 with respect to Judge Brown's bias. A copy of Anna Knoll's affidavit of February 28, 1966 is reproduced in *Appendix V* on page 87a.

The question of a judge's bias in petitioners case is similar to the question of a judge's bias in case No. 490 entitled Samuel H. Sheppard vs. E. L. Maxwell in which certiorari was granted.

The question of invasion of privacy by the use of informers to deprive petitioners of their inheritance

is similar to the question about invasion of privacy in case No. 794 entitled Hoffa v. United States in which certiorari was granted.

CONCLUSION

For the reasons set forth above, this Court should grant rehearing.

Respectfully submitted,

MISS ANNA KNOLL
1500 Massachusetts Ave. N. W.
Washington, D. C. 20005
Pro Se

MRS. ROSE KELLER
Route 1, Box 89
West 33rd Street
Zion, Illinois 60099
Pro Se

Certificate of Petitioners

Petitioners Anna Knoll and Rose Keller hereby certify that the foregoing petition for rehearing is presented in good faith and not for delay and is restricted to grounds specified in Rule 58 of the Rules of this Court.

ANNA KNOLL
Pro Se

ROSE KELLER
Pro Se

APPENDIX A

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF KANSAS

ROSE KELLER, ANNA KNOLL and MARGARET SLUGA,

Plaintiffs,

vs.

ALEX KNOLL,

Defendant.

Case No. W-1811

ENTERED

AUG 31 1959

CHARLES W. CAHILL, Clerk

By [illegible] Deputy

ORDER OF DISMISSAL

Now on this 31st day of August, 1959, this cause comes on for hearing, the plaintiffs appearing by their attorneys, Ratner, Mattox & Ratner, and the defendant, by his attorneys, Collins, Hughes, Martin, Pringle & Schell, and the court being fully advised in the premises finds that the parties in the above entitled action have amicably settled their differences by virtue of an agreement whereby the defendant conveyed a 1/32nd of his royalty interest on the oil and gas leases presently in effect on the subject matter of this controversy to each of his brothers and sisters, including Joe Knoll, Adam Knoll, Adolph Knoll, Wendelin Knoll, Mary Bittel, Anna Knoll, Margaret Sluga and Rose Keller, the latter three being the plaintiffs in this action.

The Court further finds that by virtue of such conveyance, the parties to this action have fully settled their differences in this suit and that therefore, this action should be dismissed with prejudice to the plaintiffs.

130

IT IS THEREFORE ORDERED that the above entitled action be dismissed with prejudice to the plaintiffs and that the cost of this action be taxed to the defendant.

Chief Judge

APPROVED:

RATHER, MATTOX & RATHER

By _____
Attorneys for the Plaintiffs

COLLINS, HUGHES, MARTIN, PRINGLE & SCHELL

By _____
Attorneys for the Defendant

APPENDIX B

ALVIN G. BROOKS
ATTORNEY AND COUNSELOR AT LAW
1527 ASHLAND AVENUE
EVANSTON, ILLINOIS

November 4, 1958

Re: Mrs. Rose Keller
Route 1, Box 89
W. 33rd Street
Zion, Illinois

C

[illegible], Hatton & Ratner
[illegible] North Market
Witchita, Kansas

Attention: Mr. Payne H. Ratner, Jr.

O

Dear Mr. Ratner:

This office has been consulted by the above named person with reference to her inheritance claim involving property which should have been divided between her and several sisters and brothers.

The property is located in St. Peters, Kansas, and consisted approximately 320 acres and we further understand that there are now oil wells located on this property and that one of the brothers has complete charge of the land.

P

Mrs. Keller says that she has been deprived of her rights and when she talked to me about the matter I immediately suggested that she should confer with you as in all probability the matter appears to require litigation in the State of Kansas.

Y

Mrs. Keller has had considerable research done in connection with the case and she is anxious to come to your office in Witchita, Kansas for an appointment to discuss the nature of her claim fully with you.

Kindly let us hear from you at your earliest convenience.

Very truly yours,

Alvin G. Brooks

Alvin G. Brooks

Note-
Rose-
Will contact you as soon as I hear from Mr. Ratner

APPENDIX C

ALVIN G. BROOKS
ATTORNEY AND COUNSELOR AT LAW
1827 ASHLAND AVENUE
EVANSTON, ILLINOIS

November 27, 1950

Re: Mrs. Rose Keller, et al

Ratner, Mattox & Ratner
[illegible] North Market
Wichita, Kansas

Dear Mr. Ratner:

Mrs. Keller called at this office today and stated that she is very much pleased with the interview and courtesy shown by your associate Mr. James Robert Barr and has requested us to forward to you the enclosed photostats indicating possession by certificate of title and further that the originals are available for your inspection or use at any time.

Mrs. Sluga, who is Mrs. Keller's sister, stated that if there is any additional information which you need and if you would like to discuss the matter further with her she would appreciate an appointment with you within the next thirty days preferably on a Monday.

If we can be of further service do not hesitate to let us know.

Very truly yours,

Alvin G. Brooks

COPY

APPENDIX D

1500 Massachusetts Ave., N.W.
Washington, D. C. 20005
March 9, 1966

County Clerk
Graham County
Hill City, Kansas

Re: Decree of Descent No. D-189 on the Rose Knoll estate showing Anna Knoll's undivided one-ninth inheritance interest in fee simple in the East Half of Section 10, Township 10, South, Range 25 West, Graham County, Kansas; Anna Knoll's Certificate of Title Authorizing Anna Knoll to record her undivided one-ninth Inheritance Interest in Fee Simple in the Aforementioned 320-Acre Farm; Civil Action No. W-1811 in the United States District Court for the District of Kansas entitled Rose Keller, Anna Knoll, and Margaret Sluga vs. Alex Knoll wherein an attempt was made to give the aforementioned Inheritance Interest of Anna Knoll to Alex Knoll without Due Process of Law in Violation of the Fourteenth Amendment of the Constitution; Civil Actions No. W-3361, W-3362, and W-3363 (Consolidated) in the United States District Court for the District of Kansas entitled Socony Mobil Oil Co. v. Anna Knoll, et al.; and No. 862 in the Supreme Court of the United States, October Term, 1965, entitled Knoll, et al. v. Knoll, et al.

Dear County Clerk:

I, Anna Knoll, am enclosing a copy of my mother's Decree of Descent of November 1957, a photostat of my Certificate of Title, and a copy of a telegram dated March 7, 1966 relating to my inheritance interest effective as of the date of the death of my mother on December 13, 1941.

Please record my certificate of title so that I can enjoy my undivided one-ninth inheritance interests, which in-

cludes my royalty interest in my mother's valuable estate, as other heirs of my mother have been doing since her death on December 13, 1941.

Since it is unconstitutional to discriminate against me, I suggest that you refer any questions you may have about my certificate of title to all of the other Knoll heirs named in the aforementioned 1957 Decree of Descent. Each of these heirs is being sent a copy of the aforementioned telegram of March 7, 1966 from Adam Knoll to Anna Knoll so that they can see for themselves that Adam Knoll wants to get their mother's estate settled. I'll be pleased to pay any fees, taxes, etc. that may be required to be paid before my certificate is recorded just as soon as you have resolved any other questions you may have about my certificate of title with the other Knoll heirs named in the aforementioned 1957 Decree of Descent.

Yours truly,

ANNA KNOLL
(Miss) Anna Knoll

Enc. Decree of Descent, Certificate of Title, Telegram

cc—Rose Keller
Adam Knoll
Joe Knoll
Alex Knoll
Wendelin Knoll
Mary Bittel
Adolph Knoll
Margaret Sluga

APPENDIX E

CLASS OF SERVICE
This is a fast message unless its deferred character is indicated by the proper symbol.

WESTERN UNION TELEGRAM

W. P. MARSHALL, CHAIRMAN OF THE BOARD
R. W. McFALL, PRESIDENT

SYMBOLS
DL = Day Letter
NL = Night Letter
LT = International Letter Telegram

The filing time shown in the date line on domestic telegrams is LOCAL TIME at point of origin. Time of receipt is LOCAL TIME at point of destination

RBA095 1057A EST MAR 7 66 (55)AA077 KB047
K HYA006 PD HAYS KANS 7 944A CST
MISS ANNA KNOLL
1500 MASSACHUSETTS AVE NORTHWEST APT 603 WASHDC
WE WOULD LIKE TO WORK WITH YOU. WE MIGHT HAVE CHANCE FOR ONE HALF. WENDELIN AND MCVEY WOULD GO ALONG WITH THIS OR MAYBE A LITTLE BETTER. WOULD APPRECIATE YOUR REPLY
ADAM KNOLL
(50).

APPENDIX F

GRAHAM COUNTY
HILL CITY, KANSAS

March 11, 1966

Miss Anna Knoll, Apt. 603
1500 Massachusetts Ave. N.W.
Washington, D. C. 20005

Dear Miss Knoll:

In reply to your letter dated March 9, 1966, I as County Clerk can be of no assistance to you in this matter. Our records show the Determination of Descent from Mrs. Rosa Knoll, from Probate Court dated Nov. 24, 1958. Listing the nine heirs.

Quit Claim Deeds from the eight heirs and their husbands and or wives to Alex Knoll and wife Dated July 23, 1959 were entered on our transfer book and Tax roll July 28, 1959.

I am sorry that I can be of no further help to you in this matter.

Sincerely,

Mabel Cafferty

Mabel Cafferty
Graham County Clerk

APPENDIX G

KNOLL v. KNOLL
Cite as 350 F.2d 407 (1965)

ANNA KNOLL and ROSE KELLER, *Appellants*,

v.

ALEX KNOLL, Josephine Knoll, Joe Knoll, Adam Knoll, Wendelin Knoll, Mary Bittel, Adolph Knoll, Stephanie noll, Margaret Sluga, Casey Jones, and Mobil Oil Company, *Appellees*.

No. 8140.

United States Court of Appeals
Tenth Circuit.
Aug. 23, 1965.

Rehearing Denied Sept. 22, 1965.

Action brought by plaintiffs who alleged that they had lost their rights of inheritance in their parents' home in Kansas as result of fraud of defendants. The United States District Court for the District of Kansas, Wesley E. Brown, J., dismissed action and appeal was taken. The Court of Appeals held that in view of jurisdictional allegation of complaint that one of plaintiffs and some of defendants were citizens of Illinois, federal court did not have jurisdiction for lack of requisite diversity of citizenship.

Affirmed.

* * * * * * * * * *

Anna Knoll and Rose Keller, pro se.

Tom C. Triplett, Wichita, Kan. (George B. Collins, Oliver H. Hughes, Robert Martin, K. W. Pringle, Jr., W. F. Schell, Robert M. Collins, W. L. Oliver, Jr., W. V. Crank, Wichita, Kan., Thomas M. Burns and Peter J. Wall, Denver, Colo., on the brief), for appellees.

Richard B. Altman, Dallas, Tex. (Charles B. Wallace, Ross Madole, Donald G. Canuteson, Dallas, Tex., Mark H. Adams, Charles E. Jones, Wm. I. Robinson, J. Ashford Manka, Clifford L. Malone, Mark H. Adams, II, John S. Seeber, Floyd E. Jensen, Robert Hall, Philip L. Bowman and Joe Rolston, Wichita, Kan., on the brief), for Socony Mobil Oil Co., Inc.

Before PHILLIPS, PICKETT and LEWIS, Circuit Judges.

PER CURIAM.

[1, 2] Appellants filed this action in the United States District Court for the District of Kansas, alleging, in substance, that they lost their rights of inheritance in their parents' farm in Kansas as a result of the fraud of the defendants. Upon timely motion, the trial court dismissed the action for lack of the requisite diversity of citizenship. The jurisdictional allegation of the complaint states that one of the plaintiffs is a citizen of the District of Columbia, and the other a citizen of the State of Illinois. It also recites that while some of the defendants are citizens of Kansas, other defendants are citizens of the State of Illinois.[1] It is obvious there is no diversity of citizenship between the plaintiff and the defendants who are citizens of Illinois. It has long been held that diversity means "total diversity." That is, all the parties on one side must have citizenship diverse to those on the other side. Straw-

[1] Paragraph 1 of the complaint reads in part: "Plaintiff Anna Knoll is a citizen of the District of Columbia with a post-office address at 1500 Massachusetts Ave., N.W., Washington, D. C. Plaintiff Rose Keller is a citizen of the state of Illinois with a post-office address at West 33rd Street, Route 1, Box 89, Zion, Illinois. Defendants Alex Knoll, Josephine Knoll, Joe Knoll, Adam Knoll, Wendelin Knoll, Mary Bittel, and Casey Jones are citizens of the State of Kansas. Defendants Adolph Knoll, Stephanie Knoll, and Margaret Sluga are citizens of the State of Illinois. The Mobil Oil Company is a corporation doing business in the State of Kansas. * * *"

bridge v. Curtis, 3 Cranch 267, 7 U.S. 267, 2 L.Ed. 435; Treinies v. Sunshine Mining Co., 308 U.S. 66, 60 S.Ct. 44, 84 L.Ed. 85, rehearing denied 309 U.S. 693, 60 S.Ct. 464, 84 L. Ed. 1034; Wagner v. Flora, 10 Cir., 290 F.2d 508; 28 U.S.C. § 1332; 1 Moore, Federal Practice, ¶ 0.60 [8.-4, pp. 644-645; Wright, Federal Courts, § 24, pp. 71-72.

We are also in agreement with the trial court's finding that all the parties are indispensable to the lawsuit, and that none could be dropped or realigned.

Affirmed.

APPENDIX H

BRIEF FOR THE APPELLEES

IN THE

UNITED STATES COURT OF APPEALS

TENTH CIRCUIT

No. 8140

ANNA KNOLL and ROSE KELLER,
Appellants,

vs.

ALEX KNOLL, JOSEPHINE KNOLL, JOE KNOLL, ADAM KNOLL, WENDELIN KNOLL, MARY BITTEL, ADOLPH KNOLL, STEPHANIE KNOLL, MARGARET SLUGA, CASEY JONES and MOBIL OIL COMPANY,
Appellees.

GEORGE B. COLLINS
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ROBERT MARTIN
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INDEX

Statement of the Case 1
Statement of the Facts 2
Appellees' Specification of Points 3
Argument and Authorities 3
1. The Complaint Shows on Its Face That the District Court Is Without Jurisdiction 3
2. Improper Venue 4
3. Plaintiffs' Claim Is Barred by Rule 60(b), F.R.C.P. 4
Conclusion 6
Appendix—
Complaint 7
Memorandum of Opinion 18
Motion to Dismiss 36
Judgment 37

Table of Authorities

Hood v. *Hood*, 10 Cir., 335 F.2d 585 (1964) 6
Krippendorf v. *Hyde*, 110 U.S. 276, 4 S. Ct. 27, 28 L. Ed. 145 (1884) 4
Martina Theatre Corp. v. *Schine Theatres, Inc.*, 2 Cir., 278 F.2d 798 (1960) 4
Pacific R.R. v. *Missouri Pacific Ry Co.*, 111 U.S. 505, 4 S. Ct. 583, 28 L. Ed. 498 (1884) 4
Strawbridge v. *Curtiss*, 3 Cranch 267, 2 L. Ed. 435 (1806) 4

Rule 60(b), F.R.C.P. 3, 4, 5
28 U.S.C.A. § 1391 4

II

STATEMENT OF THE FACTS

A short review of prior litigation as well as proceedings in the District Court which led to this appeal will contribute to an understanding of the case.

Plaintiffs and all of the defendants except Casey Jones and Mobil Oil Company are brothers and sisters or their spouses. The real estate in question originally belonged to the parents. After the death of the parents, record title became vested in the defendant Alex Knoll through quit claim deeds executed by the other members of the family. Oil was discovered on the property.

In 1959, the plaintiffs Anna Knoll and Rose Keller, together with Margaret Sluga, a party defendant in this action, joined as plaintiffs in a civil action brought in the United States District Court for the District of Kansas against the defendant Alex Knoll. (Record in Case W-1811) The object of that action was to have title to the land declared to be held in trust for the benefit of the plaintiffs and the other brothers and sisters. The 1959 action was settled under an Agreement whereby Alex Knoll conveyed 1/32nd royalty interest in oil and gas production from the land to the plaintiffs and other members of the family. An appropriate order was entered in that case on August 31, 1959, dismissing the action with prejudice to the rights of the plaintiffs. The royalty conveyances were made and delivered to all grantees. The plaintiffs in the present action, however, have refused to accept royalty payments thereunder. Plaintiffs were represented by counsel in the 1959 case. (Record in Case No. W-1811)

On July 21, 1964, Anna Knoll and Rose Keller instituted the present action claiming that the settlement of the 1959 case was fraudulently procured and again asserting their alleged right to an undivided interest in the Graham County real estate and the oil which it has produced. (Complaint)[2]

---

2. Since no printed record has been prepared in this case, we attached as an Appendix to this brief, the Complaint, defendants' Motion to Dismiss, the Opinion of the District Court and the Judgment.

IN THE

UNITED STATES COURT OF APPEALS

TENTH CIRCUIT

No. 8140

ANNA KNOLL and ROSE KELLER,
Appellants,

vs.

ALEX KNOLL, JOSEPHINE KNOLL, JOE KNOLL, ADAM KNOLL, WENDELIN KNOLL, MARY BITTEL, ADOLPH KNOLL, STEPHANIE KNOLL, MARGARET SLUGA, CASEY JONES and MOBIL OIL COMPANY,
Appellees.

BRIEF FOR THE APPELLEES

I.

STATEMENT OF THE CASE

This is an appeal from an Order of the United States District Court for the District of Kansas, dismissing plaintiffs' complaint for want of Federal jurisdiction. The plaintiffs[1] claim an undivided interest in a half section of farm real estate situated in Graham County, Kansas, and in royalties from oil and gas production from the property.

The present suit is the latest in a series of legal actions undertaken by the plaintiffs with respect to their claim. Plaintiffs appear pro se in this Court and in the District Court.

The existence or lack of Federal diversity jurisdiction is the paramount issue.

---

1. For clarity, the parties will be referred to as they appeared in the Court below: Appellants as plaintiffs and appellees as defendants.

Defendants moved to dismiss the action for lack of diversity jurisdiction, improper venue, bad service and because plaintiffs' claim was barred under Rule 60(b), F.R.C.P. Oral arguments were presented in the District Court. It is clear from the Court's opinion that plaintiffs' case was accorded full consideration. The Court sustained defendants' motion on the jurisdictional ground.

III.

APPELLEES' SPECIFICATION OF POINTS

1. The District Court properly concluded and ruled that it lacked jurisdiction.

2. Venue has not properly been laid in the United States District Court for the District of Kansas.

3. Plaintiffs' claim is barred under Rule 60(b), F.R.C.P.

IV.

ARGUMENT AND AUTHORITIES

1. The Complaint Shows on Its Face That the District Court Is Without Jurisdiction.

Plaintiffs' Complaint alleges that the jurisdiction of the Court is based upon diversity of citizenship. (Complaint, Para. I, Appendix) The Complaint correctly alleges that the plaintiff Rose Keller is a citizen of Illinois and that the defendants Adolph Knoll, Stephanie Knoll and Margaret Sluga are also citizens of Illinois. (Complaint, Para. I, Appendix) It cannot be said that any of the defendants properly should be realigned with the plaintiffs in the action. All of them, including Margaret Sluga, who was a plaintiff in the 1959 case, now own an undivided interest in the royalties from oil and gas produced on the land in question, and according to the allegations of the Complaint, participated in and have accepted the benefits of the alleged fraudulent settlement of the 1959 litigation.

The District Judge concluded that the requirement of complete diversity of citizenship was missing on the allegations of the Com-

plaint and that the Court lacked jurisdiction. *Strawbridge* v. *Curtiss*, 3 Cranch 267, 2 L. Ed. 435 (1806). We submit that the dismissal of the case is mandatory.[3]

2. Improper Venue.

Under 28 U.S.C.A. § 1391, the venue requirement in a diversity action is that all of the plaintiffs or all the defendants must be residents of the District in which the action is brought. The Complaint shows that none of the plaintiffs are residents of Kansas and only a part of the defendants are residents of Kansas. Obviously, venue, as required by 28 U.S.C.A. § 1391, is not present.

3. Plaintiffs' Claim Is Barred by Rule 60(b), F.R.C.P.

Plaintiffs' complaint in the present case is clearly an attack on the judgment and final order dismissing the 1959 case with prejudice to the rights of the plaintiffs. The basis of the attack is that the final order in the 1959 case was procured by fraud practiced by these defendants. The gist of the plaintiffs' complaint is accurately recited in the first sentence of paragraph F of the Complaint (Appendix), in which it is said that fraudulent representations were made to the plaintiff before and after their depositions were taken in 1959 in order to induce them to enter into a settlement of that case. The fraudulent conduct alleged amounts to fraud on the plaintiffs in the 1959 case, not fraud upon the Court. This must be the plaintiffs' position because the judgment in

---

3. In *Martina Theatre Corp.* v. *Schine Theatres, Inc.*, 2 Cir., 278 F.2d 798 (1960), the Court states in a footnote to the opinion (note 1, page 800) that Federal courts have "ancillary jurisdiction" over an independent action to relieve a party from a judgment, order or decree regardless of whether a Federal question or diversity of citizenship is present; citing *Pacific R.R.* v. *Missouri Pacific Ry. Co.*, 111 U.S. 505, 4 S. Ct. 583, 28 L. Ed. 498 (1884). That case, in turn, cites *Krippendorf* v. *Hyde*, 110 U.S. 276, 4 S. Ct. 27, 28 L. Ed. 145 (1884). A proper analysis of both *Pacific R.R.* and *Krippendorf* show that the so-called "ancillary jurisdiction" of the original court is based upon the inherent power of courts to carry out, regulate or restrain the enforcement of their judgments, orders or process. This is a familiar concept but it is not involved in the instant case. Further, we submit, the rule of ancillary jurisdiction is not so broad nor the results of its application so startling as the footnote in *Martina* would indicate

the 1959 case was entered as the result of compromise, not as the result of a judicial determination.

Where pertinent, Rule 60(b) provides:

> "On motion and upon such terms as are just, the Court may release a party or his legal representative from a final judgment, order or proceeding for the following reasons: * * * (3) Fraud (whether heretofore denominated intrinsic or extrinsic), representation, or other misconduct of an adverse party. * * * The motion shall be made within a reasonable time made, and for reasons (1), (2) and (3), not more than one year after the judgment, order or proceeding was entered or taken. * * *"

The order of dismissal with prejudice in Case No. W-1811 was filed August 31, 1959, and the present action was commenced July 21, 1964.

The present action was commenced as an independent action which, we believe, it properly is. Nevertheless, we presume that this Court and the District Court might be justified in treating the action as the equivalent of a motion in the original case if that were necessary to afford these plaintiffs who are not represented by counsel in this proceeding, a remedy to which rightfully they are entitled.

At this point, however, the plaintiffs are confronted with a dilemma: If this action is to be treated as a proceeding on motion under Rule 60(b), then the plaintiffs clearly are barred under the rule because they failed to commence proceedings within one year after the judgment was entered; therefore, the complaint should be dismissed. If this is an independent action based on fraud, it is clear on the face of the complaint that diversity of citizenship is not present and the District Court was right in dismissing the complaint.

While Rule 60(b) was raised as a limitation provision in the event this action was treated as the equivalent of a motion in the original case, we believe that the District Court was correct in treating the present action as a new and independent suit and in no sense, a proceeding ancillary to the 1959 case. As suggested earlier, the substance of the plaintiffs' complaint is fraud practiced by the defendants in procuring

their agreement to the settlement of the 1959 litigation.[4] Alex Knoll was the single defendant in the 1959 litigation. In the present case, ten additional defendants have been joined, eight of them members of the family, Casey Jones, a member of the Bar of Kansas, and Mobil Oil Company, the purchaser of crude oil from the property. As we interpret the complaint, the plaintiffs claim that these additional parties cooperated in some fashion in defrauding them in the settlement of the 1959 litigation. This is a fresh claim.

CONCLUSION

It is clear, we submit, that the United States Courts lack jurisdiction of the plaintiffs' case and that in any circumstances, the plaintiffs' complaint was properly dismissed.

Respectfully submitted,

GEORGE B. COLLINS
OLIVER H. HUGHES
ROBERT MARTIN
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Attorneys for Appellees

4. See *Hood* v. *Hood*, 10 Cir., 335 F.2d 585 (1964).

[Appendix to Brief for Appellees (pages 7-37) is omitted from printing. The contents of the appendix are listed in the index.]

APPENDIX I

BRIEF OF APPELLEE SOCONY MOBIL OIL COMPANY, INC.

UNITED STATES COURT OF APPEALS

TENTH CIRCUIT

No. 8140

ANNA KNOLL and ROSE KELLER,
Appellants,

vs.

ALEX KNOLL, JOSEPHINE KNOLL, JOE KNOLL, ADAM KNOLL, WENDELIN KNOLL, MARY BITTEL, ADOLPH KNOLL, STEPHANIE KNOLL, MARGARET SLUGA, CASEY JONES, MOBIL OIL COMPANY,
Appellees.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS, WICHITA, KANSAS.

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INDEX

Nature of the Case 1
Facts 1
Argument 3
Conclusion 4

CASE CITED

Strawbridge v. *Curtiss*, 3 Cranch 267, 2 L. Ed. 435 (1806) 2

STATUTES

Rule 73 (b), Federal Rules of Civil Procedure, 29 U.S.C.A. 3
28 U.S.C.A. 1332 ..... 1, 3
28 U.S.C.A. 1335 4

UNITED STATES COURT OF APPEALS

TENTH CIRCUIT

No. 8140

ANNA KNOLL and ROSE KELLER,
Appellants,

vs.

ALEX KNOLL, JOSEPHINE KNOLL, JOE KNOLL, ADAM KNOLL, WENDELIN KNOLL, MARY BITTEL, ADOLPH KNOLL, STEPHANIE KNOLL, MARGARET SLUGA, CASEY JONES, MOBIL OIL COMPANY,
Appellees.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS, WICHITA, KANSAS.

BRIEF OF APPELLEE SOCONY MOBIL OIL COMPANY, INC.

NATURE OF THE CASE

This appeal by plaintiffs below, Anna Knoll and Rose Keller, is from an order and judgment of the United States District Court for the District of Kansas dismissing their action on the ground that there was no diversity of citizenship as required by 28 U.S.C.A. 1332. The sole question presented is whether such diversity of citizenship exists under the facts of this case.

FACTS

On July 21, 1964, Anna Knoll and Rose Keller commenced this action in the court below against Alex Knoll, Josephine Knoll, Joe Knoll, Adam Knoll, Wendelin Knoll, Mary Bittel, Adolph Knoll, Stephanie Knoll, Margaret Sluga, Casey Jones and Mobil Oil Company,[1]

1. This defendant's correct name is Socony Mobil Oil Company, Inc. and will be hereinafter referred to as Socony.

being Civil Action No. W-3239, which action purported to be based upon diversity of citizenship of the parties. The plaintiffs sought, among other things, the following relief: To set aside an order of dismissal entered by the United States District Court for the District of Kansas on August 31, 1959, in a prior action, Case No. W-1811; a decree that certain oil and gas leases executed in 1951 and 1954 from Alex Knoll and wife to Casey Jones "be set aside and that new oil leases be executed by plaintiffs and defendants;" an order directing Socony to suspend payments to its royalty payees until the issue as to plaintiffs' alleged title was resolved; and an accounting from Socony for all royalty payments made since oil was "discovered on the aforementioned property in 1957." (Complaint, pages 9 and 10)

Socony timely filed its answer alleging, among other things, that there was a lack of indispensable parties for the reason that plaintiffs sought to invalidate certain oil and gas leases without joining the holders thereof as parties to the action; that Socony was an innocent purchaser of the oil and its interest in the litigation was that of a stakeholder; that the plaintiffs' complaint against it failed to state a claim upon which relief could be granted; and that therefore the action should be dismissed as to it. In its second defense Socony again stressed that it was a mere stake-holder in the litigation, but also alleged that the title questions raised by the plaintiffs-appellants should be fully adjudicated in order that it might be protected in making future payments to the proper parties for its crude oil purchases.

Thereafter the defendants, other than Socony, filed their motion to dismiss the action. On December 10, 1964, the District Court entered its Memorandum of Opinion in which it determined that the defendants, Margaret Sluga and Adolph and Stephanie Knoll, citizens of the State of Illinois, were indispensable parties; that their presence could not be disregarded in determining the jursidictional question; and that therefore they could not be dropped from the suit in order to save jurisdiction. The Court held that under the well-settled rule of *Strawbridge* v. *Curtiss*, 3 Cranch 267, 2 L. Ed. 435 (1806), complete diversity was not present inasmuch as one plaintiff, Rose Keller, was a citizen of

Illinois and the defendants mentioned above were also citizens of Illinois. In accordance with this Memorandum of Opinion and without ruling upon Socony's motion to dismiss as to it, the Court entered judgment on December 2, 1964, dismissing the action. Thereafter and on January 14, 1965, defendants filed their notice of appeal pursuant to Rule 73 (b) of the Federal Rules of Civil Procedure, 28 U.S.C.A.

ARGUMENT

As asserted in its answer, Socony's sole interest in this litigation, as a mere stake-holder, is a desire to have the title questions raised by plaintiffs fully adjudicated so that it may account to the proper persons for its purchases of oil from the lands involved. While Socony was not a party to the prior action in the United States District Court for the District of Kansas, entitled Rose Keller, Anna Knoll and Margaret Sluga, plaintiffs vs. Alex Knoll, defendant, Case No. W-1811, it has relied upon the judgment and order of the Court in that case and based upon such judgment has circulated division orders to the various royalty owners. All of such royalty owners except appellants herein, Anna Knoll and Rose Keller, have executed those division orders and Socony has accounted to them for their share of the proceeds for the purchases of the oil. Of course, Socony has always paid for the oil purchased from the lands here in dispute and continues to be willing and ready to pay for such oil, provided only that there has been a determination of the proper persons it is to pay.

As a stake-holder Socony has little or no interest in the merits of this action as between appellants and the other appellees. However, we would be less than candid with this Court if we did not frankly state that we agree with the District Court's disposition of this case. The Court below was compelled to dismiss the action for the simple reason that the requisite diversity of citizenship was lacking under 28 U.S.C.A. 1332. It is clear from the record that the appellant-plaintiff, Rose Keller, is a citizen of Illinois and three of the defendants-appellees are citizens of the same State. Therefore, there is no diversity of citizenship between the parties.

It seems appropriate to add here that after the filing of plaintiffs' notice of appeal in this case, demand was made upon Socony to account

to the various owners of oil and gas leasehold interests in the lands in dispute, which interest holders were not joined in the action although their title was drawn in question by the plaintiffs' complaint. As a result of the conflicting claims to the production of oil from the premises and since it believes that this Court must and will affirm the Trial Court's decision, Socony has, in order to protect itself, filed three separate interpleader actions in the United States District Court for the District of Kansas under the provisions of 28 U.S.C.A. 1335, and has paid in to the Registry of that Court an aggregate sum of $174,870.25, representing the amount of royalties due. Thus, the issues which appellants sought to litigate in this action will be determined in those cases in which there can be no question of jurisdiction.

CONCLUSION

We submit that the order and judgment of the Court below must be affirmed.

Respectfully submitted,

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Wichita, Kansas

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APPENDIX J

No.

United States Court of Appeals

TENTH CIRCUIT

ANNA KNOLL and ROSE KELLER, *Appellants*

v.

ALEX KNOLL, JOSEPHINE KNOLL, JOE KNOLL, ADAM KNOLL, WENDELIN KNOLL, MARY BITTEL, ADOLPH KNOLL, STEPHANIE KNOLL, MARGARET SLUGA, CASEY JONES, MOBIL OIL COMPANY, *Appellees.*

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS, WICHITA, KANSAS

BRIEF FOR THE APPELLANTS

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PRESS OF BYRON S. ADAMS, WASHINGTON, D. C.

INDEX

	Page
General Comment	1
Nature of Appeal	2
Background Information	2
The Judgment in Case No. W-3239	4
The Questions Presented	6
Statement of Facts	6
Argument	7
I. Appellants have been deprived of their inheritance without due process of law in violation of the fourteenth amendment	7
1. Their father's estate was *secretly* probated before their mother's death	7
2. Their father's estate was again *secretly* probated after their mother's death	7
3. Their mother's estate was also probated to appellants' prejudice	8
4. Many additional parties were added in W-1811 without a motion or order to appellants' prejudice	8
II. Order of Dismissal in W-1811 is of no legal effect and therefore should be set aside	8
III. Appellee Mobil Oil Co. was negligent in paying royalty interest before the interests of the nine Knoll heirs were adjudicated in accordance with due process	9
IV. Appellee Casey Jones was negligent in leasing the P. A. Knoll farm from appellees Alex Knoll and Josephine Knoll before the interests of the nine Knoll heirs were adjudicated in accordance with due process	9
Conclusion	10

United States Court of Appeals

TENTH CIRCUIT

No.

ANNA KNOLL and ROSE KELLER, *Appellants*

v.

ALEX KNOLL, JOSEPHINE KNOLL, JOE KNOLL, ADAM KNOLL, WENDELIN KNOLL, MARY BITTEL, ADOLPH KNOLL, STEPHANIE KNOLL, MARGARET SLUGA, CASEY JONES, MOBIL OIL COMPANY, *Appellees.*

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS, WICHITA, KANSAS

BRIEF FOR THE APPELLANTS

GENERAL COMMENT

Appellants Anna Knoll and Rose Keller do *not* appear pro se by choice. They made a diligent effort to get a Kansas lawyer to handle their case but could *not* find one because of the manner in which their interests in their parents valuable estate have been prejudiced.

Appellants Anna Knoll and Rose Keller have had very little time to devote to the preparation of this brief even though their time was extended to April 13, 1965 because they had to spend a considerable amount of time answering three complaints from appellee Mobil Oil Company relating to the subject of this appeal. Appellant Anna Knoll, who is employed on a full-time basis, was not able to complete her answers to these three complaints until March 30, 1965, and consequently has not had much time to devote to this brief.

NATURE OF APPEAL

This is an appeal by appellants Anna Knoll and Rose Keller from the judgment of the United States District Court for the District of Kansas, Wichita, Kansas entered on December 14, 1964. The judgment dismissed Civil Action No. W-3239 for a want of federal jurisdiction, and denied any relief, as prayed for.

The suit in civil action No. W-3239 was brought for determination of appellants interests (including royalty interest) in their natural parents' 320-acre farm located in Graham County, Kansas, which their five brothers and other two sisters have been using to appellants' prejudice since their father's death.

BACKGROUND INFORMATION

Before discussing the judgment of December 14, 1964, it is necessary to discuss certain pertinent background information.

P. A. Knoll and Rose Knoll of Graham County, Kansas, the owners of the aforementioned 320-acre farm, were the natural parents of appellants Anna Knoll and Rose Keller and appellees Alex Knoll, Joe Knoll, Adam Knoll, Wendelin Knoll, Adolph Knoll, Mary Bittel, and Margaret Sluga.

P. A. Knoll passed away on January 14, 1938 and Rose Knoll passed away on December 13, 1941. Rose Knoll, who could *not* speak, read, or write the English language and had no business experience, is purported to have been the executrix of P. A. Knoll's estate. She could *not* communicate with the Probate Judge of Graham County, Kansas, except through an interpreter. Their mother, Rose Knoll, did *not* and could *not* function as an executrix.

Appellant Anna Knoll is a resident of *Washington, D. C.*, appellant Rose Keller is a resident of *Illinois*, four of their brothers (Alex Knoll, Joe Knoll, Adam Knoll, Wendelin Knoll) and their sister Mary Bittel are residents of *Kansas*, and their brother Adolph Knoll and their sister Margaret Sluga are residents of *Illinois*.

Appellee Mobil Oil Company, the purchaser of the oil produced on the aforementioned 320-acre farm, has paid considerable royalty interest to the other seven Knoll heirs mentioned above, *but none to appellants*, on the basis of a 1959 agreement that appellants repudiated. Appellants Anna Knoll and Rose Keller repudiated this agreement in that they were *tricked* into signing this 1959 agreement which gives them no interest in their parents 320-acre farm and gives them much

less than their rightful share of royalty interest. A copy of this 1959 agreement is attached as *Exhibit J* to the Complaint in case No. W-3239. This Complaint, with exhibits attached, is shown in the index of the record of appeal as appearing on page 1.

This 1959 agreement makes it appear as if appellee Alex Knoll and his wife Josephine Knoll made *two* valid oil leases with Casey Jones in the early 1950's when they leased this 320-acre farm for oil and gas purposes, and as if they had given all the heirs of P. A. Knoll and Rose Knoll an equal share of royalty interest to terminate the lawsuit and to keep peace among the Knoll heirs. Some of the contents of this July 23, 1959 agreement were embodied in the Order of Dismissal in case No. W-1811. However no reference is made in the Order of Dismissal to the three-part *deed* mentioned in the agreement that appellants were tricked into signing after they had been tricked into signing the agreement. Moreover, only *nine* of the *ten* parties to the agreement are shown in the Order of Dismissal. The name of Alex Knoll's wife, Josephine Knoll, which appears in the first paragraph of the agreement is the *only* party of the ten parties listed in the July 1959 agreement that is not listed in the Order of Dismissal in case No. W-1811. This means in effect that six parties were added without a motion or order to the four parties that were named in the Complaint in Case No. W-1811 to negotiate an agreement in July 1959 that was to plaintiffs' prejudice and to the benefit of the other seven Knoll heirs.

Appellants did *not* have the opportunity to appear before a judge to have a full and fair hearing in case No. W-1811.

A lawyer is shown in case No. W-1811 as representing appellants and appellee Margaret Sluga, the three parties that are named as plaintiffs in case No. W-1811 in which Alex Knoll was named the only defendant. Appellants did not know that Margaret Sluga was *secretly* working for Alex Knoll's interests in this litigation. Consequently appellants did *not* realize that they would be tricked into signing an agreement and a three part deed, both of which are to appellants' prejudice, and that this would be done by bringing in the other five Knoll heirs and Alex Knoll's wife as additional parties. The lawyer that is purported to have represented appellants in case No. W-1811 was more of a handicap than a help in that he worked primarily for Margaret Sluga's interests. She was and is appellants' adversary.

Appellants did *not* know until the summer of 1962 that Margaret Sluga was *secretly* working with Alex Knoll and the other Knoll heirs

in case No. W-1811 to help trick appellants into signing the 1959 agreement so appellants would not get any interest in their parents' 320-acre farm and only a small portion of royalty interest. This was done to keep the two oil leases in effect that Alex Knoll and his wife had made with Casey Jones in the early 1950's.

The aforementioned oil leases made in the early 1950's between Casey Jones and Alex Knoll and his wife Josephine Knoll were made a number of years before appellants received their *first* notice of a hearing on their parents' estate. Appellants received their first notice of a hearing in 1957 when appellee Alex Knoll claimed to be the owner of their parents' 320-acre farm. Appellee Casey Jones, an attorney from Graham County, Kansas represented appellee Alex Knoll in this 1957 hearing on their parents' estate. At this 1957 hearing the other seven Knoll heirs also worked together *secretly* so appellants would not be able to get proper legal counsel and so they would not get a hearing in court.

When appellants wanted to know what this 1957 hearing was all about they were told by Hill City, Kansas lawyers that appellants had no interest in their deceased parents farm in that appellee Alex Knoll got title to their parents' farm from appellee Adolph Knoll. When appellants wanted to know how appellee Adolph Knoll got the title to their parents' farm they were told they had signed a 1942 deed to appellee Adolph Knoll. This news about a 1942 deed was a *complete surprise* to appellants in that they had never heard anything about a 1942 deed to Adolph Knoll until this 1957 hearing. *When appellants* wanted to see this 1942 deed that they had never heard about before this 1957 hearing, this 1942 deed was *not* produced for them to examine even though the lawyers that appellants consulted discussed this matter with appellee Casey Jones. Three of the seven Knoll heirs even consulted lawyers with appellants to negate appellants efforts to get their inheritance at this hearing in 1957.

THE JUDGMENT IN CASE NO. W-3139

The judgment entered on December 14, 1964 was rendered after appellee Mobil Oil Company filed its *Answer* and the ten other appellees filed a *Motion to Dismiss*. Although Mobil Oil Company prayed that action as to it be dismissed, it expressed a desire in the second defense to the effect that the title question raised by appellants be fully adjudicated. Appellee Mobil Oil Company admitted in paragraph 8 of its answer that appellants have been corresponding with Mobil Oil Company since the early part of 1960. Appellants corre-

sponded with Mobil Oil Company for a number of years to inform this company to the effect that appellants were *not* signing division orders giving them less than their rightful share of royalty interest in that the interests of the nine natural heirs of P. A. Knoll and Rose Knoll in the aforementioned 320-acre farm had *not* yet been adjudicated in accordance with due process of law.

The aforementioned Motion to Dismiss challenged the Court's jurisdiction in case No. W-3239 which is based on diversity of citizenship, as was Keller v. Knoll, No. W-1811 (D. Kan. 1959), which appellants asked to be set aside in that they were tricked into negotiating a July 23, 1959 agreement that was to their prejudice when six parties were added *without a motion or order*. In W-1811 the other seven Knoll heirs worked together secretly so appellants would *not* be able to get proper legal counsel and would not have the opportunity to have a hearing in court so they could trick appellants into negotiating an agreement that was to appellants' prejudice.

Appellants were not aware of this trickery in case No. W-1811 in that appellee Alex Knoll was named the defendant in that case and appellants and Margaret Sluga the plaintiffs. Four parties from Kansas were added as first parties, one party from Kansas was added as a second party, and one party from Illinois was added as a first party. Adding all these parties had the effect of destroying diversity of citizenship and removing the case from the Court's jurisdiction. The net result of all this is that the Order of Dismissal of August 31, 1959 is a *void judgment* in that the court did not have jurisdiction of the case. The names of all the parties that were brought in to become parties to this agreement and therefore parties to this lawsuit are shown in the agreement attached as Exhibit J to the Complaint which is shown in the index of the record of appeal as appearing on page 1.

Appellant Anna Knoll appeared in Court for the hearing on August 28, 1964 on the Motion to Dismiss to explain why Civil Action No. W-3239 should *not* be dismissed and to ask that a hearing be held as soon as possible to have the interests of appellants fully adjudicated. At this hearing the court said it would take under advisement what appellant Anna Knoll said with respect to having been deprived of her inheritance without due process of law in violation of the fourteenth amendment of the Constitution. (See page 11 of Supplement to the record on appeal.).

THE QUESTIONS PRESENTED

1. Whether the Motion to Dismiss that challenged the Court's jurisdiction in Case No. W-3239 should have been overruled rather than used as a basis for dismissing the case for a want of federal jurisdiction.

2. Whether it was proper for the Court *not* to comment in its Memorandum of Opinion on the expressed desire of Mobil Oil Company to have the title question raised by appellants fully adjudicated.

3. Whether it was proper for the court *not* to provide any relief even though the documents filed with the Court together with the Answers of Mobil Oil Company indicated that the other seven Knoll heirs received considerable royalty interest while appellants have not received a cent of royalty interest from their parents' 320-acre farm.

4. Whether it was proper for the court *not* to comment in their memorandum of opinion on appellant Anna Knoll's statement before the Court on August 28, 1964 about having been deprived of her inheritance without due process of law in violation of the fourteenth amendment of the Constitution.

5. Whether it was proper for the Court *not* to comment in its memorandum of opinion on the question raised by appellant Anna Knoll on August 28, 1964 with respect to the Court's jurisdiction in Case No. W-1811 which is based on diversity of citizenship as is case No. W-3239.

6. Whether the court would have had jurisdiction to adjudicate appellant Anna Knoll's interest in that there could be no question about diversity of citizenship in her case.

STATEMENT OF FACTS

Even though there have been *four prior* court proceedings (three probate court proceedings in Graham County, Kansas and the litigation in W-1811), appellants still weren't successful in case No. W-3239 in getting the inheritance of which they have been deprived since their father's death in 1938. Moreover, they have *not* received a cent of royalty interest. During this long period of time the aforementioned seven Knoll heirs have had benefits from their parents' estate totaling in excess of $250,000.00.

The $250,000.00 benefits shown above as having been received by the other seven Knoll heirs represent appellants' best estimates in

that there has never been a proper accounting on their parents' estates and in that appellee Mobil Oil Company has never given appellants the amount of royalty interest that it has paid to the other seven Knoll heirs.

ARGUMENT

I.

Appellants have been deprived of their inheritance since their father's death without due process of law in violation of the fourteenth amendment of the Constitution.

Appellants have never had the opportunity to appear before a judge to have their interests in their parents estate adjudicated on the basis of a full and fair hearing even though there have been *four* court proceedings on their parents estate before the present litigation.

1. The *first* court proceeding on their parents estate was held *secretly* from 1938 through 1940 after their father's death when their mother was supposed to have been the executrix and was supposed to have handled the many documents that were filed in their father's probate court records. *Appellants received no notice of this hearing and consequently did not know anything about this proceeding.* Their mother could *not* and did *not* function as executrix in that their mother could not speak, read, and write the English language and she could not communicate with the Probate Judge of Graham County, Kansas except through an interpreter. She never said anything to appellants about the estate. Appellants now know that their mother did not say anything about the estate because she did *not* know anything about the estate as their father's estate was handled so secretly by the other seven Knoll heirs that their mother didn't even know about it.

2. The second court proceeding was also held *secretly*. This second court proceeding on their father's estate was held from 1944 to 1947. *Appellants received no notice of this hearing and consequently did not know anything about this proceeding.* This proceeding was held after their mother's death and after liberties had been taken with appellants' signatures on at least four occasions to deprive them of their inheritance. Liberties were taken with appellants signatures to make it appear as if appellants had given their interests in their parents car for $1.00 to appellee Alex Knoll in 1941 after their mother's death. Liberties were taken with appellants' signatures to make it appear as if appellants had conveyed in 1942 for the sum of $1.00 to Adolph Knoll their interests in their parents 320-acre farm with its many

farm buildings and its ideal location in Bryant Township. Liberties were taken with appellants' signatures to make it appear as if appellants had made an assignment to Adolph Knoll in July 1943. Liberties were taken with appellants signatures to make it appear as if appellants had signed a waiver of notice of hearing on petition for administration when appellee Joe Knoll was *secretly* named administrator in 1944 with will annexed. The liberties that have been taken with appellants' signatures are described in the Answer of Anna Knoll to Defendant's Motion to Dismiss. This document is shown on the index of the record of appeal as appearing on page 45.

3. In 1957 appellants received the *first* notification of a hearing on their parents estate when the third court proceeding was held on their parents estate when *their mother's estate was also probated to appellants' prejudice.* Their mother's estate was probated sixteen years after her death. Instead of being given the opportunity to appear for a fair and full hearing on their mother's estate appellants interests were prejudiced when they appeared for this hearing in that they were bombarded with propaganda to the effect that they had signed a 1942 deed to appellee Adolph Knoll. Appellants did *not* sign a deed to Adolph Knoll in 1942.

4. In the fourth court proceeding which is the 1959 litigation identified as case No. W-1811, six additional parties were added and events shaped in such a manner that appellants were again denied the opportunity to appear before a judge and have their interests in their parents estates adjudicated. This is described in detail in the pleadings in the record on appeal.

II.

The Order of Dismissal in W-1811 is of no legal effect and should therefore be set aside.

The Order of Dismissal in W-1811 is of no legal effect in that this order was used as a device to give benefits to a number of parties that were not named as litigants in any of the other pleadings in W-1811 but who did come in as parties of the first part and as parties of the second part to *trick* appellants into signing the aforementioned agreement and a three part deed to appellee Alex Knoll. This three part deed is discussed in Rose Keller's Answer to Defendants Motion to Dismiss. This document is shown in the index of the record of appeal as appearing on page 37.

Appellants now know but did not know when case No. W-1811 was filed that it was filed in the wrong court and that the court had

no jurisdiction of that particular case in that the five Kansas parties that were added destroyed diversity of citizenship and in that the additional parties were brought in without a motion or order. The lawyer that is purported to have represented appellants in case No. W-1811 was more of a handicap than a help in that he worked more for the interests of the other Knoll heirs than for appellants and thereby prejudiced the interests of appellants. Page two of the July 23, 1959 agreement shows that this lawyer was paid by four Knoll brothers that were brought in as additional parties. This was done at Margaret Sluga's suggestion.

III.

Appellee Mobil Oil Company was negligent in paying royalty interest before the interests of P. A. Knoll's nine natural heirs were adjudicated in accordance with due process of law.

Appellee Mobil Oil Company made royalty interest payments to the prejudice of appellants in that they made royalty interest payments after appellants notified them again and again of the discrepancies in their interests which appellee should have discovered from its own title search. A careful title search would have revealed that appellee could *not* make payments with safety because of the discrepancies in the records and the instruments of record. It is quite apparent that there was something amiss in the deed that was recorded of Alex Knoll's supposed predecessor in title in that no specified *material* value of consideration was shown on the face of the deed and in that the deed was recorded before their mother's estate was probated and before their father's estate was probated the second time. This is only one example of the many discrepancies that can be found in the record and instruments of record on the P. A. Knoll estate.

IV.

Appellee Casey Jones was negligent in leasing the P. A. Knoll farm from appellees Alex Knoll and Josephine Knoll before the interests of the nine Knoll heirs were adjudicated in accordance with due process of law.

There are no valid oil and gas leases on the aforementioned 320-acre farm in that appellees Alex Knoll and Josephine Knoll could not make valid leases with appellee Casey Jones in the early 1950's. Casey Jones, an attorney at law, was fully aware of this when he made these oil leases with Alex Knoll and Josephine Knoll.

Casey Jones who has been well acquainted with the other seven Knoll heirs for more than thirty years and had an intimate knowledge of the history of the P. A. Knoll and Rose Knoll estate knew that appellee Alex Knoll did not have a clear title to his parents 320-acre farm. Appellee Casey Jones also knew that Alex Knoll's supposed predecessor in title, Adolph Knoll, did not have a valid deed to their parents 320-acre farm as appellants never conveyed their interest to Alex Knoll's supposed predecessor in title. This 1942 deed of Alex Knoll's supposed predecessor in title was *not* signed by appellants Anna Knoll and Rose Keller. Someone else signed their names to this deed without their knowledge and without their approval.

CONCLUSION

The appellants are of the opinion that the United States District Court for the District of Kansas has jurisdiction over civil action No. W-3239 on a number of grounds but that the most appropriate one is the due process clause of the fourteenth amendment of the Constitution in that appellants have been deprived of their inheritance without due process of law since their father's death. Appellants are of the opinion that under the due process clause the court should overrule the Motion to Dismiss and fully adjudicate appellants interests and provide such other relief as the court deems just and equitable. In appellants opinion this relief should include setting aside as a void judgment the Order of Dismissal in No. W-1811 for the reasons already given and making appellants interests in their parents 320-acre farm effective as of the date of the death of their parents.

In brief, appellants believe the United States District Court, Wichita, Kansas, has jurisdiction to look into the merits of civil action No. W-3239 and provide such relief as deemed just and equitable and that a decision to this effect is in order.

Respectfully submitted,

Anna Knoll
Rose Keller
Pro Se

APPENDIX K

No. 8140

United States Court of Appeals

TENTH CIRCUIT

ANNA KNOLL AND ROSE KELLER, *Appellants*

v.

ALEX KNOLL, JOSEPHINE KNOLL, JOE KNOLL, ADAM KNOLL, WENDELIN KNOLL, MARY BITTEL, ADOLPH KNOLL, STEPHANIE KNOLL, MARGARET SLUGA, CASEY JONES, MOBIL OIL COMPANY, *Appellees.*

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS, WICHITA, KANSAS

PETITION FOR REHEARING

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INDEX

	Page
I. Petition Submitted With Utmost Deference and Respect	1
II. Appellants Are Not Representing Themselves by Choice	3
III Interpleader Actions and Belated Briefs of Appellees Interfered With Appellants' Presentations	6
IV. Outstanding 1957 Decree of Descent and 1959 Judgment in Conflict	8
1. Appellants Inheritance Interests *Predate* Adverse Claims of Appellees	8
2. Alex Knoll's Three-Part Deed of 1959 No Better Than Two Deeds From Adolph Knoll	10
3. Socony Mobil Purchases and Pays on Basis of Colored Title	13
V Decree of Descent of November 1957 on Rose Knoll Estate Paramount	13
VI. Certificate of Appellants	14

Appendix

Exhibit A of Complaint—Notice of Hearing	1a
Exhibit B of Complaint—Decree of Descent	2a
Exhibit C of Complaint—Certificate of Title	4a
Exhibit D of Complaint—Certificate of Title	5a
Exhibit E of Complaint—Deed of 1942	7a
Exhibit F of Complaint—Casey Jones letter re 1942 deed of Adolph Knoll	11a
Exhibit H of Complaint—Affidavit of 1941	11a
Exhibit I of Complaint—Affidavit of 1942	13a
Exhibit J of Complaint—Agreement of July 23, 1959	14a
Exhibit N of Complaint—1964 Letter from Socony Mobil to Anna Knoll	17a
Exhibit A of Rose Keller's Answer to Motion to Dismiss—Deed of Alex Knoll	18a
Exhibit A of Anna Knoll's Answer to Motion to Dismiss—Bill of Sale of Personal Property	23a
Exhibit B of Anna Knoll's Answer to Motion to Dismiss—April 1964 Letter from Motor Vehicle Department, Topeka to Anna Knoll	23a
Exhibit C of Anna Knoll's Answer to Defendant's Motion to Dismiss—Bill of Sale of Personal Property	24a
Transcript of Anna Knoll's Statement Before Court on August 28, 1964	26a

United States Court of Appeals

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No. 8140

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v.

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APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS, WICHITA, KANSAS

PETITION FOR REHEARING

I.

PETITION SUBMITTED WITH UTMOST DEFERENCE AND RESPECT

Come now the appellants Anna Knoll and Rose Keller and petition the court to grant them a rehearing in the above entitled cause which pertains to a 1959 judgment rendered by the United States District Court for the District of Kansas in civil action No. W-1811 which is in conflict with a decree of descent on their mother's estate issued on November 15, 1957 by the Probate Court of Graham County, Kansas. Appellants are *not* lawyers and therefore beg the court to accept this petition as being submitted with the utmost deference and respect notwithstanding the seeming directness of their presentation.

This rehearing is sought because several matters presented by appellants were *not* considered in the per curiam opinion filed August 23, 1965 affirming the judgment of the United States District Court for the District of Kansas in dismissing civil action No. W-3239 on the ground of lack of the requisite diversity of citizenship.

Appellants believe that too much weight was given to the arguments presented by the appellees who are trying to keep in effect the judgment in civil action No. W-1811, which would take away *without due process of law* from appellants the *undivided one-ninth* inheritance interest appellants acquired through the aforementioned Decree of Descent issued by the Probate Court of Graham County, Kansas on November 15, 1957.

Appellants believe that the Decree of Descent issued by the Probate Court of Graham County, Kansas on November 15, 1957 must go into effect and the judgment of August 31, 1959 in civil action No. W-1811 must be set aside in order to remove the cloud from the acreage that is the subject of this controversy.

This rehearing in civil action No. W-3239 is sought in that none of the following questions appear to have been considered in the per curiam opinion of August 23, 1965 affirming the judgment of the United States District Court for the District of Kansas:

1. The question of the existence of federal diversity jurisdiction between Socony Mobil and appellants.
2. The questions of the existence of federal jurisdiction in reopening and modifying or setting aside the judgment in civil action No. W-1811 since appellants have *not* signed *three outstanding* division orders based thereon because the judgment in W-1811 is in conflict with the 1957 Decree of Descent on their mother's estate.
3. The question of the existence of federal jurisdiction in civil action No. W-3239 under the Fourteenth Amendment of the Constitution.
4. The question of whether or not the judgment in W-1811 could be carried into effect and royalty interest could properly be released when appellants Anna Knoll and Rose Keller refused to sign the three outstanding division orders because they are in conflict with the 1957 Decree of Decent.
5. The question of Socony Mobil's *negligence* in releasing royalty interest to the other Knoll heirs after appellants notified them

of the discrepancies in their interests after appellants had been *tricked* into signing a July 23, 1959 agreement and a three-part deed of July 1959 to remove the cloud from the title of appellee Alex Knoll.

6. The question of Socony Mobil's *negligence* in purchasing, since 1957, the oil produced from the acreage that is the subject of this controversy on the basis of interests that are inconsistent with the Decree of Descent of November 15, 1957, and thereby depriving appellants of their rightful share of royalty interest since 1957.

Appellants believe that their presentations to the court on July 16, 1965 were construed as an attempt to go into the merits of their case. It was *not* appellants intent to go into the merits of the case when they discussed matters relating to the manner in which their rights assured by the fourteenth amendment have been violated since their parents deaths. Appellants merely attempted to explain that they believed that the United States District Court for the District of Kansas had jurisdiction of civil action No. W-3239 based on what transpired with respect to their inheritance.

II.

APPELLANTS ARE NOT REPRESENTING THEMSELVES BY CHOICE

Appellants are *not* representing themselves by choice. They are representing themselves because their inheritance interests were so prejudiced when the 1957 Decree of Descent was issued and in the subsequent 1959 litigation in civil action No. W-1811 that they can't find a Kansas lawyer to represent them. *Six exhibits* in the appendix are referred to in this section of the petition to show how the inheritance interests of appellants have been prejudiced since their parents deaths. *These exhibits are attachments to pleadings in civil action No. W-3239.*

Appellants have been discriminated against and denied the equal protection of the law since their mother's estate was probated in November 1957 because their inheritance interests, which are effective as of the date of the death of their mother on December 13, 1941 *predate* the adverse claims of all the appellees. Ever since appellants received the *first* notice of a hearing on their parents estate in 1957 when Socony Mobil began purchasing the oil produced from their parents estate appellants have been discriminated against in that ever since then it has been made to appear as if appellee Alex Knoll were the owner of their parents estate.

Information to the effect that appellee Adolph Knoll was appellee Alex Knoll's purported predecessor in title based on a 1942 deed appellee Adolph Knoll was supposed to have received from the Knoll heirs was *first* made known to appellants when they went to Hill City, Kansas in 1957 to attend a hearing on their mother's estate. Appellants went to Hill City for this hearing in response to the *first* notice of a hearing they received on their parents estate. Appellees Adolph Knoll, Joe Knoll, Adam Knoll and Wendelin Knoll did not come to Hill City to this hearing so they wouldn't have to face appellants when they challenged Alex Knoll's title to their parents estate. A copy of this notice of hearing is reproduced on page 1a of the appendix under the heading entitled Exhibit A of Complaint.

Appellants had no knowledge of the *colored* title that had *secretly* been given to appellee Alex Knoll through a purported predecessor in title Adolph Knoll and consequently were taken by complete surprise when appellee Alex Knoll made it known to them through means other than an official document that he traced his title to his purported predecessor in title Adolph Knoll who claimed he had received a deed from all the Knoll heirs about a year after their mother's death. Appellants wish to emphasize that they had no knowledge of the 1942 deed that is supposed to have been given to Adolph Knoll by the Knoll heirs and that appellants have never seen the original deed. A copy of a 1957 letter written by appellee Casey Jones to Adolph Knoll after Casey Jones helped the Knoll heirs keep the original deed from appellants at the 1957 hearing is reproduced on page 11a of the appendix under the heading entitled Exhibit F of Complaint.

Appellants wish to emphasize that they wanted to see the 1942 deed at the 1957 hearing so they could examine the signatures on that deed. This deed was not produced for their inspection even though it is a public document and should have been available for their inspection. Appellants also wish to emphasize that they have never seen the original deed which they asked to see when appellee Casey Jones represented Alex Knoll at the aforementioned 1957 hearing.

The aforementioned letter written by Casey Jones to Adolph Knoll was furnished to appellants by appellee Margaret Sluga. Through this and other *indirect* means appellants were told that appellee Adolph Knoll was supposed to have received the deed from the Knoll heirs that appellants never heard about until 1957 when Socony Mobil began purchasing the oil produced from the P. A. Knoll and Rose Knoll estate. A copy of this 1942 deed that appellants had never heard anything about until the 1957 hearing on their mother's estate is repro-

duced on page 7a of the appendix under the heading entitled Exhibit E of Complaint.

Appellants have *never* received as consideration the one dollar and love and affection shown in the aforementioned copy of this 1942 deed to Adolph Knoll.

Even though appellants appeared for this 1957 hearing and consulted Hill City lawyers all kinds of obstacles were put in their way to keep the 1957 Decree of Descent from going into effect and thereby depriving appellants of their undivided one-ninth inheritance interests in their parents estate.

Appellants were not even told about the November 15, 1957 Decree of Descent that was issued on the very day they were at Hill City for the hearing. Appellants *first* found out about this Decree of Descent after Rose Keller made a special trip to Hill City, Kansas in May 1958 and again attempted to get the inheritance she did not get when she appeared for the hearing on November 15, 1957. She was furnished a copy of the November 15, 1957 Decree of Descent after she consulted a Hill City lawyer appellants had *not* consulted in November 1957. A copy of this November 15, 1957 Decree of Descent is reproduced on page 2a of the appendix under the heading entitled Exhibit B of the Complaint.

Appellants were not even successful in getting their inheritance after appellant Rose Keller made another trip to Hill City, Kansas in November 1958 and got certificates of title showing their entitlement to an undivided one-ninth interest in the acreage that is the subject of this controversy. She got these certificates after she discussed this matter with the County Clerk and after he took her to the Probate Judge's office and told the Probate Judge to give her the certificates of title. A copy of the certificates of title for appellants that Rose Keller obtained from the Probate Judge in November 1958 are reproduced on pages 4a and 5a of the appendix under the headings entitled Exhibit C of Complaint and Exhibit D of Complaint.

All kinds of obstacles have been put in the way to keep the 1957 Decree of Descent from going into effect even after appellants got a copy of the Decree of Descent and certificates of title. These obstacles were put in the way in an attempt to keep the adverse interests of appellees in effect and to deprive appellants of their undivided one-ninth inheritance interest in their parent's estate. For this reasons an attempt was made to make it appear as if appellants got a very small interest in their parents estate from their brother appellee Alex Knoll

in 1959 in civil action No. W-1811 in that this would make the interests of appellants in their parents estate effective after the interests of their opponents became effective. This would also make their interests effective after Socony Mobil began purchasing oil produced from their parents estate.

Appellants are representing themselves to the best of their ability in this very complex and time consuming litigation. Appellants wish to emphasize that they are *not* lawyers and therefore are not able to prepare their petition for a rehearing as it would be prepared by an attorney. Appellants do not have the research facilities that a lawyer has and they cannot devote as much time to this petition as a lawyer can in that appellant Anna Knoll is employed on a full time basis.

III.

INTERPLEADER ACTIONS AND BELATED BRIEFS OF APPELLEES INTERFERRED WITH APPELLANTS PRESENTATIONS

The three interpleader actions referred to in Socony Mobil's brief required so much of appellants' time and the two belated briefs prepared by the counsels of appellees came at such a late date that appellants did not have sufficient time to devote to the oral and written presentations that were a necessary part of this appeal. As a consequence more weight was given to the arguments presented by appellees on July 16, 1965 than to the arguments and facts presented by appellants.

For the aforementioned reasons appellants did not have time to prepare a reply brief to take exception to various statements made in the briefs filed in behalf of appellee Alex Knoll, et al. and the brief filed in behalf of Socony Mobil. Both of these briefs were based on conclusions drawn in the District Court's Memorandum of Opinion of Dec. 10, 1964.

Appellants believe that the memorandum of opinion filed in the District Court on December 10, 1964, is *biased in favor of appellee Alex Knoll* in that it is based to a considerable extent on information obtained from the records in civil action No. W-1811 which was dismissed with prejudice to appellants. In that litigation appellants did not have an opportunity to have a hearing before a judge and they did not have proper legal counsel. It was dismissed to their prejudice without the knowledge of appellants about five weeks after they were *tricked* into signing an agreement and a three part deed to appellee Alex Knoll to remove the cloud from appellee Alex Knoll's title to keep the *invalid* oil and gas leases in effect appellee Alex Knoll made with appellee Casey Jones.

During civil action No. W-1811 the Knoll heirs were rushed to Wichita for a meeting on July 23, 1959 to trick appellants into signing an agreement and a three part deed to appellee Alex Knoll in an attempt to give Alex Knoll a clear title because Alex Knoll did *not* have a clear title. Mr. James O. McVey, a Hill City lawyer, was brought to Wichita for this meeting to pose as a family mediator so he could help to trick appellants into signing this July 1959 three part deed. The Knoll heirs were so strategically placed as first and second parties that appellants couldn't discover all this trickery as they did *not* realize that all other Knoll heirs were their adversaries. This trickery in civil action No. W-1811 happened after the depositions of appellants Anna Knoll and Rose Keller were taken on July 22, 1959 by Mr. Robert Martin of Wichita wherein appellants Anna Knoll and Rose Keller had proved their entitlement to their inheritance and wherein appellants had proved that the Decree of Descent of November 15, 1957 should go into effect.

This three part deed of 1959 is *not* valid in that appellants were *tricked* into signing this deed which wasn't even discussed during the negotiations on July 23, 1959. Copies of this three part deed to appellee Alex Knoll, which did *not* give appellee Alex Knoll a better title than the two deeds he got from appellee Adolph Knoll, are reproduced on page 18a of the appendix under the heading entitled Exhibit A of Rose Keller's Answer to Defendant's Motion to Dismiss. Appellants have *never* received as consideration the one dollar shown in the aforementioned copy of Alex Knoll's three part deed.

The per curiam opinion does not appear to consider appellants' question with respect to the existence of federal jurisdiction in civil action No. W-3239 under the Fourteenth Amendment of the Constitution. The ground for the Court's jurisdiction under the Fourteenth Amendment of the Constitution is referred to in the last paragraph on page 5 of appellants' brief. The Fourteenth Amendment was cited by Appellant Anna Knoll in her closing statement in the hearing before the Court on August 28, 1964. See the last paragraph on page 5 of appellants' brief. A transcript of Anna Knoll's statements before the Court on August 28, 1964 is reproduced on page 26a of the appendix.

Appellants believe that Socony Mobil should *not* have been released from liability since there is diversity of citizenship between appellants and Socony Mobil, since Socony Mobil was properly served, and since Socony Mobil is purchasing oil produced from the acreage that is the subject of this controversy on the basis of a *colored* title and there-

fore on the basis of *invalid* deeds. Since Socony Mobil is making these purchases to appellants' prejudice, appellants believe Socony Mobil is *not* a mere stakeholder but an *adverse* party to appellants. A copy of a letter to Anna Knoll from Socony Mobil, regarding payments released from May 1960 to December 1963 to the other Knoll heirs and payments being held in suspense for appellants Anna Knoll and Rose Keller, is reproduced on page 17a of the appendix under the heading entitled Exhibit N of Complaint.

IV.

OUTSTANDING 1957 DECREE OF DESCENT AND 1959 JUDGMENT IN CONFLICT

1. Appellants' Inheritance Interests *Predate* Adverse Claims of Appellees.

The paramount issue in civil action No. W-3239 is the setting aside of the judgment of August 31, 1959 in civil action No. W-1811 that is in conflict with the 1957 Decree of Descent so that the undivided one-ninth inheritance interests of appellants which *predate* the adverse claims of appellees can go into effect.

Appellee Casey Jones was *negligent* in leasing for oil and gas purposes in the early 1950's from appellee Alex Knoll the acreage that is the subject of this controversy. Appellee Casey Jones knew from his title search and the history of this estate that appellee Alex Knoll was *not* the *sole* owner of the property that is the subject of this controversy in that appellants Anna Knoll and Rose Keller had an undivided one-ninth inheritance interest therein. Casey Jones leased this acreage from appellee Alex Knoll after P. A. Knoll's estate had been *secretly* probated *two* times, and after appellee Alex Knoll *secretly* got a *colored* title on record based on two deeds he got from appellee Adolph Knoll and Adolph Knoll's wife, appellee Stephanie Knoll.

Appellee Alex Knoll and appellee Casey Jones both knew that appellee Alex Knoll could *not* make valid oil leases in the early 1950's on the acreage that is the subject of this controversy in that appellants Anna Knoll and Rose Keller have an undivided one-ninth inheritance interest therein, effective as of the date of the death of their mother on December 13, 1941. Both of these appellees knew that they were making these oil leases at their own risk as they knew that they could *not* treat this acreage as if it belonged to appellee Alex Knoll.

In the pleadings in civil action No. W-1811 appellee Alex Knoll stated in effect that he and appellee Adolph Knoll paid their parents debts. In 1964 appellants discovered that this was a reversal of the position appellee Alex Knoll, a resident of Graham County, took in two affidavits he prepared before a notary public in Trego County shortly after their mother's death, when liberties were taken with appellants' signatures to absorb their parents motor vehicles without appellants knowledge. In these two affidavits, which appellants saw for the first time in April 1964, appellee Alex Knoll said in effect that all of their parents debts were paid and no probate proceedings were necessary. Appellee Alex Knoll made this statement with respect to their father's estate in his affidavit dated December 19, 1941, a copy of which is reproduced on page 11a of the appendix under the heading entitled Exhibit H of Complaint. Appellee Alex Knoll made this statement with respect to their mother's estate in his affidavit dated January 7, 1942, a copy of which is reproduced on page 13a of the appendix under the heading entitled Exhibit I of Complaint.

Appellant Anna Knoll saw the aforementioned affidavits for the *first* time in April 1964 in that these affidavits were two of the many enclosures she received in April 1964 from the Motor Vehicle Department, Topeka, Kansas in response to her inquiry regarding the certificates of titles of their parents' motor vehicles. A copy of this letter from the Motor Vehicle Department, Topeka, Kansas is reproduced on page 23a of the appendix under the heading entitled Exhibit B of Anna Knoll's Answer to Defendants' Motion to Dismiss.

Appellant Anna Knoll was convinced beyond a shadow of a doubt that liberties had been taken with her signature to deprive her of her inheritance when she saw for the *first* time in April 1964, the aforementioned 1941 and 1942 affidavits prepared by Alex Knoll, together with a copy of a 1941 Bill of Sale whereon an Anna Knoll signature appeared. This was just one of a number of other instances where an Anna Knoll signature had appeared on a document relating to her parents estates that she hadn't heard anything about. Appellant Rose Keller was also taken by complete surprise when she saw for the *first* time in April 1964 a copy of a 1941 Bill of Sale whereon a Rose Knoll signature appeared purported to be Rose Keller's signature before she was married. She was taken by surprise since she knew nothing about the existence of a Bill of Sale made in behalf of Alex Knoll in 1941. When appellant Anna Knoll saw these Bills of Sale made in behalf of Alex Knoll and discovered that Rose Keller knew nothing about these Bills of Sale, appellant Anna Knoll then knew beyond a

shadow of a doubt that liberties had been taken with her signature on the aforementioned 1942 deed recorded in Adolph Knoll's name and that for that reason nothing was ever mentioned about this 1942 deed until nearly fifteen years later when their mother's estate was probated in 1957. A copy of these 1941 Bills of Sale are reproduced on pages 23a, 24a of the appendix under the headings entitled Exhibit A of Anna Knoll's Answer to Defendants Motion to Dismiss and Exhibit C of Anna Knoll's Answer to Defendant's Motion to Dismiss.

For the aforementioned reasons appellants refer to page two of the brief filed in behalf of appellee Alex Knoll, et al, regarding record title being vested in appellee Alex Knoll. This record title represents nothing more than a *colored* title and therefore did *not* give appellee Alex Knoll *sole* title to the acreage that is the subject of the controversy.

There is no statue of limitations on appellants inheritance interests because there has been *no lawful disposition* of their inheritance. Therefore the 1957 Decree of Descent must go into effect and the judgment in W-1811 which is in conflict therewith must be set aside to remove the cloud from the acreage that is the subject of this controversy.

2. Alex Knoll's Three Part Deed of 1959 No Better Than Two Deeds from Adolph Knoll.

Appellants do not agree with the statements made in the brief in behalf of appellee Alex Knoll, et al, which make it appear as if Alex Knoll were the owner of the P. A. Knoll and Rose Knoll estate and as if he had given appellants royalty interest as a gift.

Appellants did *not* vest title to their parents estate in Alex Knoll. Therefore Alex Knoll is not the *sole* owner of their parents estate and cannot make *valid* royalty conveyances. Appellants have the same interests in their parents estate as Alex Knoll has and therefore have challenged his title to their parents estate ever since they received the *first* notice of a hearing on their parents estate in 1957.

The record title of appellee Alex Knoll is nothing more than a colored title, and therefore does *not* give Alex Knoll a greater interest in the acreage that is the subject of the controversy than each of the appellants have in this acreage. The 1959 three-part deed to Alex Knoll, that appellants were *tricked* into signing in civil action No. W-1811 to deprive them of their undivided one-ninth inheritance interest *without due process of law* in violation of the fourteenth amendment of the Constitution, does *not* give Alex Knoll a better title

than the *colored* title he got from Adolph Knoll. This means then that the royalty conveyances he has made are *not* valid.

Appellants do not agree with the statement made on page two of the brief in behalf of appellee Alex Knoll, et al., with respect to the 1959 action being settled under an agreement and an appropriate order having been entered in that case with prejudice to the rights of appellants. The Order of Dismissal that was entered in that case was *not* an appropriate order. Due process was *not* followed in that this order was entered in the case without appellants' knowledge and consequently appellants didn't know about this order until one year later when they made a special trip to Wichita themselves to find out what happened. The 1959 action *has never been settled* and therefore can be reopened and modified or set aside in that appellants have never signed the three outstanding division orders which are based on the July 23, 1959 agreement they were tricked into signing. The three part deed to Alex Knoll they were also *tricked* into signing which wasn't discussed at any time during the negotiations does *not* give Alex Knoll a clear title to their parents estate. Appellants kept the P. A. Knoll and Rose Knoll estate unsettled by *not* signing the three outstanding division orders which are based on Alex Knoll's invalid deeds, the invalid oil and gas leases, the invalid royalty conveyances, etc. It means that an attempt was made in the 1959 action to remove the cloud from Alex Knoll's title by taking away from appellants without due process of law the undivided one-ninth inheritance interest they acquired under the 1957 Decree of Descent. A copy of the July 23, 1959 agreement appellants were tricked into signing is reproduced on page 14a of the appendix under the heading agreement.

Appellants do not agree with the third paragraph on page 2 of the brief in behalf of appellee Alex Knoll, et al., with respect to royalty conveyances having been delivered to all grantees. *No* royalty conveyances *were delivered* to appellants but appellants were given copies of the aforementioned agreement they were tricked into signing. Alex Knoll is not the sole owner of their parents estate and therefore cannot make valid royalty conveyances. Appellants did not know about royalty conveyances having been prepared in July 1959 until appellant Anna Knoll checked with the Register of Deeds at Hill City, Kansas on another matter about the first part of September 1959.

Appellants do not agree with the statement made in the third paragraph on page 2 of the brief in behalf of appellee Alex Knoll to the effect that appellants Anna Knoll and Rose Keller refused to accept royalty payments under the royalty conveyance. It is more

correct to say that appellants Anna Knoll and Rose Keller did not sign the three division orders sent to them because they are based on a colored title and therefore on invalid oil and gas leases. This means then that Alex Knoll cannot make valid royalty conveyances.

Appellants want to clarify the statement made in the last sentence in the third paragraph on page 2 of the brief in behalf of appellee Alex Knoll, et al., with respect to appellants having been represented by counsel in the 1959 action. Appellants admit that Mr. Barr's name appears on the record as having represented them but they want to make it very clear that they did *not* receive proper legal counsel from Mr. Barr in that Mr. Barr did *not* help them get the inheritance to which they are entitled in accordance with the November 1957 Decree of Descent.

If Mr. Barr had worked for the best interests of appellants Anna Knoll and Rose Keller he would have taken the time to explain to them the aforementioned July 23, 1959 agreement so they would not have been tricked into signing the agreement; he would not have permitted Mr. McVey of Hill City to come to Wichita for the negotiations on July 23, 1959 to pose as a family mediator so he could work for Alex Knoll's benefit; he would *not* have approved an Order of Dismissal to their prejudice without their knowledge; and he would *not* have accepted pay from his clients adversaries as he did when he accepted pay from the four Knoll brothers. The second page of the agreement of July 23, 1959 states in effect that the four Knoll brothers paid the attorney fees. This means that they also paid Mr. Barr's fees. See page 15a of the appendix.

Appellants find no basis for the statements made with respect to appellants inheritance interests being barred. There is no statute of limitation on appellants inheritance interests in that they are being deprived of their inheritance *without due process of law* in violation of the fourteenth amendment of the Constitution. Even if a one year statute of limitation would have applied in the 1959 case appellants would have stopped the running of this statute of limitations by their timely appeal to Mr. Barr for help, by his refusal to help them, by their refusal to sign three outstanding division orders that are based on a colored title, invalid oil and gas leases, and invalid royalty conveyances, and by their timely notification to Socony Mobil regarding the discrepancies in their interests after Mr. Barr refused to help them.

3. Socony Mobil Purchases and Pays on Basis of Colored Title.

There has been no lawful disposition of the undivided one-ninth inheritance interests of appellants Anna Knoll and Rose Keller in the acreage that is the subject of this controversy. Therefore the judgment lien of November 15, 1957 that has been outstanding since Socony Mobil started purchasing the oil that has been produced from the P. A. Knoll and Rose Knoll estate will always *color* the title of their estate until appellants Anna Knoll and Rose Keller get their rightful share of their inheritance including royalty interest. This means in effect that Socony Mobil has been purchasing the oil produced from the P. A. Knoll and Rose Knoll estate since November 1957 on the basis of a colored title and invalid oil and gas leases, and therefore has been making improper royalty interest payments during the entire period that this judgment lien of November 15, 1957 has been outstanding.

Appellants Anna Knoll and Rose Keller believe that they will be denied the equal protection of the law if Socony Mobil will not be required to pay them the funds belonging to them that Socony Mobil has been holding in suspense for many years, and if other appropriate relief is not provided for appellants Anna Knoll and Rose Keller who have been deprived of their inheritance *without due process of law* since their parents deaths.

Socony Mobil knew from its own title search, from the 1957 Decree of Descent, and from the correspondence that it has had with appellants Anna Knoll and Rose Keller since the early part of 1960 that appellants Anna Knoll and Rose Keller acquired at the death of their mother on December 13, 1941, the same inheritance interests and therefore the same mineral rights in the acreage that is the subject of this controversy as any of the other Knoll heirs.

V.

DECREE OF DESCENT OF NOVEMBER 1957 ON ROSE KNOLL ESTATE PARAMOUNT

Appellants did *not* vest title to their inheritance interests in appellee Adolph Knoll, Alex Knoll, nor in anyone else, and they have *not* signed the three outstanding division orders. Therefore their parents estate is in an unsettled condition. For these and other reasons appellants Anna Knoll and Rose Keller do *not* believe that their rightful share of their inheritance including royalty interest is barred by the rules of estoppel by judgment, res judicata, statutes of limitation, and Rule 60, Federal Rules of Civil Procedure. They therefore believe

that the Decree of Descent of 1957 is paramount and must be satisfied against the acreage that is the subject of this controversy and that the judgment in W-1811 that is in conflict therewith must be set aside to remove the cloud from this acreage.

For these reasons appellants respectfully pray the court to grant a rehearing of this cause and restore the same to the calendar for oral argument at such time and under such terms and conditions as to the court may seem fit.

MISS ANNA KNOLL
1500 Massachusetts Ave., N.W.
Washington, D. C. 20005
Pro Se

MRS. ROSE KELLER
Route 1, Box 89
West 33rd Street
Zion, Illinois 60099
Pro Se

VI.

CERTIFICATE OF APPELLANTS

Appellants Anna Knoll and Rose Keller hereby certify that said petition for rehearing is not asked for the purpose of vexation or delay, but in absolute good faith so that the court's attention may be called to those aspects of the case that will assure appellants the equal protection of the law with respect to the inheritance of which they have been deprived for many years without due process of law.

ANNA KNOLL
ROSE KELLER
Pro Se

[Appendix to Petition for Rehearing (pp. 1a-26a) is omitted from printing. The contents of the appendix are listed in the index.]

APPENDIX L

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

No. W-3239

ANNA KNOLL and ROSE KELLER, *Plaintiffs*,

vs.

ALEX KNOLL ET AL., *Defendants*.

Answer of Defendant
Socony Mobil Oil Company, Inc.
(Mobil Oil Company)

Defendant, Socony Mobil Oil Company, Inc., for its answer to Plaintiff's complaint, alleges and states:

FIRST DEFENSE

There is a lack of indispensable parties to this action for the reason that the Plaintiffs seek to have producing Oil and Gas Leases set aside and canceled, and according to this answering Defendant's records (who is the crude oil purchaser), the present holder of title to the two producing leases covering the lands, the subject matter of this litigation, is held by persons not joined in this action as Plaintiffs or Defendants.

SECOND DEFENSE

This Defendant has been purchasing the crude oil from the subject lands since first production was obtained from the lands which are the subject of this action. This Defendant has, through examinations of the various public records of Graham County, Kansas, and based upon these examinations, circulated Division Orders and Transfer Orders setting forth the ownership of the royalty and leasehold interest in accordance therewith to the various parties including these Plaintiffs and Codefendants. This

Defendant has been accounting to the various Defendants for their interests in the production, but not the Plaintiffs because the Plaintiffs have refused to execute this Defendant's Division Orders and Transfer Orders. This Defendant has no knowledge of the various allegations made by the Plaintiffs that impugn the record title to the royalty and leasehold interests as it was not a party to the alleged transactions. This Defendant is a mere stakeholder in this litigation, its only interest being that the title questions raised by the Plaintiffs be fully adjudicated in order that it may be henceforth protected in its accountings to the proper parties for its crude oil purchases from the subject premises.

THIRD DEFENSE

The Complaint fails to state a claim against this Defendant upon which relief can be granted, and this action should therefore be dismissed as to this Defendant.

ANSWER

1. Defendant, Socony Mobil Oil Company, Inc., denies all statements and allegations in the Complaint except as are admitted herein.

2. Defendant admits that it has an office at 300 North Broadway, Wichita 2, Kansas, but specifically denies that Mobil Oil Company is a corporation. Mobil Oil Company is an operating division of Socony Mobil Oil Company, Inc., a corporation organized under the laws of the State of New York and licensed to do business in the State of Kansas. Defendant further admits that according to its records, the residences of the Plaintiffs and Defendants are as shown in the Plaintiffs' Complaint.

3. This Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations and statements contained under Section II, Paragraphs A and B of the Plaintiffs' Complaint.

4. This Defendant admits that the county records in Graham County, Kansas, support the allegations contained under Section II, Paragraph C.

5. This Defendant admits that the records in the Federal District Court in and for the District of Kansas support the allegations contained under Section II, Paragraph D insofar as it alleges that the Plaintiffs in this action filed a lawsuit in 1959 in the Federal District Court of Wichita, Kansas, Cause No. W-1811 against the Defendant, Alex Knoll. This Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in the said paragraph.

6. This Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of statements contained under Section II, Paragraph E, Subparagraphs 1, 2, 3, and 4 and Paragraphs F, G, H, and J, Subparagraph 1.

7. This Defendant admits that the county records of Graham County, Kansas, show Oil and Gas Leases executed by Alex Knoll and Josephine Knoll to Casey Jones on July 16, 1954, covering the Southeast Quarter (SE ¼) of Section 10, Township 10 South, Range 25 West, recorded in Book 56, page 21 on November 19, 1954, and the Northeast Quarter (NE ¼) of Section 10, Township 10 South, Range 25 West, dated June 29, 1951, recorded on July 10, 1951, in Book 44, page 142; but, as to the remaining allegations of Paragraph I, this Defendant has insufficient information or knowledge on which to form a belief.

8. This Defendant admits that Paragraph J, Subparagraph 2 insofar as it alleges that it has been corresponding with this Defendant since the early part of 1960 but has insufficient knowledge or information on which to form a belief as to the remaining allegations.

9. This Defendant is without knowledge or information sufficient to form belief as to the truth of the allegations

contained in Paragraph J, Subparagraphs 3 and 4 of the Plaintiffs' Complaint.

10. This Defendant admits that the Plaintiffs have not signed the Division Orders and Transfer Orders circulated to them for execution insofar as they pertain to the lands subject to this controversy, and that named Defendants have signed Division Orders and Transfer Orders as alleged in Paragraph L, but this Defendant states that it is without information sufficient to form a belief as to the other allegations in said paragraph.

11. This Defendant admits the allegations contained in the first sentence of Paragraph M but neither admits nor denies the second sentence thereof for the reason that it is without knowledge or information sufficient to form a belief as to the truth thereof.

12. This Defendant is without knowledge or information sufficient to form a belief as to the truth of the matters alleged in Paragraph N of the Plaintiffs' Complaint.

WHEREFORE, Defendant, Socony Mobil Oil Company, Inc., prays that Plaintiffs take nothing as against it, that the action be dismissed as to this Defendant, and that this Defendant recover its costs herein.

SOCONY MOBIL OIL COMPANY, INC.

Richard B. Altman
P. O. Box 900
Dallas, Texas 75221

By _____
Mark R. Adams II
503 Colorado-Derby Building
202 West First Street
Wichita 2, Kansas

Attorneys for
Socony Mobil Oil Company, Inc.

APPENDIX M

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT
OFFICE OF THE CLERK

8140

Denver, Colorado, 80202,
November 18, 1965.

Mr. John F. Davis, Clerk,
Supreme Court of the United States,
Supreme Court Building,
Washington, D. C. 20543.

Dear Mr. Davis:

Enclosed is a certified copy of the record of the proceedings in our court to accompany a petition for writ of certiorari in case No. 8140, Anna Knoll et al. v. Alex Knoll et al. The original files were returned to the District Court.

Very truly yours,

ROBERT B. CARTWRIGHT
Clerk

By GEORGE A. PEASE
Chief Deputy Clerk

GAP:nku
Enc.
CC to:
Mrs. Rose Keller
Route 1, Box 89
West 33rd Street
Zion, Illinois, 60099
(Copy of statement)

APPENDIX N

UNITED STATES DISTRICT COURT
OFFICE OF THE CLERK
DISTRICT OF KANSAS

CHARLES W. CAHILL
CLERK

Wichita, Kansas
December 28, 1965

— AIR MAIL —

Mr. John F. Davis, Clerk
Supreme Court of the United States
Supreme Court Building
Washington, D. C. 20543

Re: Civil Action No. W-3239, Anna Knoll, et al. v. Alex Knoll, et al. Court of Appeals No. 8140.

Dear Mr. Davis:

At the request of the petitioner, Miss Anna Knoll, I enclose the original transcript of record on appeal to the United States Court of Appeals, Tenth Circuit, in the above case.

These papers are the original files referred to in Mr. Cartwright's letter to you dated November 18, 1965.

The original Mandate of the Court of Appeals, wherein the judgment of the district court is affirmed, is on file in this office and will be transmitted upon request.

Very truly yours,

Charles W. Cahill, Clerk

cc – Miss Anna Knoll
Mrs. Rose Keller
Collins Hughes Martin Pringle & Schell
Adams Jones Robinson & Manka
Mr. Richard B. Altman

APPENDIX O

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

No. W-3239

ANNA KNOLL and ROSE KELLER, *Plaintiffs*,

vs.

ALEX KNOLL, Josephine Knoll, Joe Knoll, Adam Knoll, Wendelin Knoll, Mary Bittel, Adolph Knoll, Stephanie Knoll, Margaret Sluga, Casey Jones, Mobil Oil Company, *Defendants*.

Partial Transcript of Proceedings Had August 28, 1964

Appearances:

HON. WESLEY E. BROWN, Judge presiding.

ANNA KNOLL,
Appearing pro se.

COLLINS, HUGHES, MARTIN,
PRINGLE & SCHELL,
by
Mr. TOM C. TRIPLETT,
Wichita Plaza Building
Wichita, Kansas
Appearing for various
defendants.

NED C. KING, C. S. R.
Post Office Box 205
Wichita, Kansas
Official Reporter

2 BE IT REMEMBERED, that on this 28th day of August, A.D., 1964, the above matter coming on for hearing on Motion to Dismiss before the Honorable

Wesley E. Brown, Judge of the United States District Court for the District of Kansas, the parties appearing in person and/or by counsel as hereinafter set forth, the following proceedings, among others, are had:

(Reporter's Note: A statement is made by Mr. Triplett, which is not transcribed herein.)

The Court: All right. You are Mrs. Knoll?

Miss Knoll: Miss Knoll.

The Court: Miss Knoll, very well. Is there anything in addition to what you alleged in the answer of Rose Keller and the answer of Anna Knoll that you want to tell the Court, in addition to this?

I will read these matters, Miss Knoll.

Miss Knoll: Yes. I have full details about not knowing what happened in this case in my complaint.

The Court: Miss Knoll, the only issue before me now is whether or not really I have jurisdiction. If I don't have jurisdiction, any judgment that I would render would be of no value, anyway. And their motion to dismiss is based on four grounds.

Now, I take it you are not a lawyer.

Miss Knoll: That is right.

The Court: So that the Court will have to look at this. The question I am asking you is: Are there any other facts, other than those contained in a document designated Anna Knoll's Answer to Defendant's Motion to Dismiss and Rose Keller's Answer to Defendant's Motion to Dismiss, with respect to the issue before me on the motion to dismiss?

Miss Knoll: I think not.

The Court: Which you wish to give to the Court?

Miss Knoll: I think, sir, I have given fairly, a fairly complete account of this in my answer.

The Court: Now may I ask you, Miss Knoll, further, so that in reading these I will be sure of my ground: Is it

your representation that all the facts contained in the two documents which I have just mentioned, Anna Knoll's Answer to Defendant's Motion to Dismiss and Rose Keller's Answer to the motion to dismiss, are sufficient information for this Court to make its determination as to whether or not it has jurisdiction of this matter?

And you understand what I mean when I say "jurisdiction"?

• • • • • • • • • • •

Do you have anything else you want to tell me, Miss Knoll?

Miss Knoll: I am just not a lawyer, so everything that I say is probably wrong.

The Court: Well, I am not going to interpret it wrong, Miss Knoll. I am going to try to interpret it on the basis of what is just and equitable, but I think there is one thing you should know, and this applies to all litigation: That is, that courts only can deal with the subject at hand at the time they are dealing with it. That courts are given, and particularly federal courts, are courts of limited jurisdiction. We only have the jurisdiction which is conferred upon us by Congressional action. And we can only dispose of those matters over which we have jurisdiction.

This challenges jurisdiction. Now, there isn't anything elseI can tell you except that I will look at it and you are here—

Miss Knoll: There is only one other point that I wish to make.

The Court: All right.

Miss Knoll: And I feel that I was deprived of my inheritance without due process of law.

The Court: All right.

Miss Knoll: And that was the Fourteenth Amendment.

The Court: Fine, we will take that into consideration. Anything else?

Mr. Triplett: No, Your Honor.

The Court: All right. We will take it under advisement.

12 CERTIFICATE

STATE OF KANSAS
COUNTY OF SEDGWICK } ss.

I, NED C. KING, a Certified Shorthand Reporter in and for the State of Kansas, and Official Reporter for the United States District Court for the District of Kansas, hereby certify that I was present and reported in shorthand the proceedings had on August 28th, 1964, before the Honorable Wesley E. Brown, Judge of the United States District Court for the District of Kansas, in the proceedings in re: Anna Knoll and Rose Keller v. Alex Knoll, et al., Case No. W-3239 in said Court.

I further certify that I have since transcribed or had transcribed under my direction and supervision a portion of my notes so taken as aforesaid in said case on said date, and I further certify to the correctness of the foregoing partial transcript of the record it purports to cover in the proceedings had on said date.

WITNESS my hand on this 2nd day of April 1965.

Ned C. King

Ned C. King, C. S. R.
Post Office Box 205
Wichita, Kansas
Official Court Reporter

APPENDIX P

NED C. KING, CSR
PLAZA 5-1954, VALLEY CENTER
GEORGE H. SCHULZ, CSR
ATWATER 9-4227, NEWTON

Associates:
MARY C. ROY, CSR
MURRAY 3-2202, WICHITA
THURMAN J. MOODY, CSR
FAIRVIEW 2-1892, WICHITA

April 2, 1965

Miss Anna Knoll
1500 Mass. Avenue, N. W.
Apartment 603
Washington 5, D. C.

Re: Anna Knoll and Rose Keller vs. Alex Knoll, et al., W-3239, U. S. District Court, District of Kansas

Dear Miss Knoll:

I am enclosing copy of transcript of proceedings had August 28, 1964, ordered over the telephone a few days ago by Mrs. Rose Keller.

I am also today filing with the Clerk, Mr. Cahill, the original copy of this transcript.

The charge for both the original which I am filing with the Clerk and the copy being mailed to you is the sum of $11.40.

I am mailing a copy of this letter to Mrs. Rose Keller, Route 1, Box 89, Zion, Illinois as of this date.

Thanking you, I am

Very truly yours,

Ned C. King

Ned C. King, Official Reporter

APPENDIX Q

UNITED STATES DISTRICT COURT
OFFICE OF THE CLERK
DISTRICT OF KANSAS

CHARLES W. CAHILL
CLERK

Wichita, Kansas
April 5, 1965

Mr. Robert B. Cartwright, Clerk
United States Court of Appeals
Post Office Building
Denver, Colorado

Re: Anna Knoll, et al. v. Alex Knoll, et al. Civ. No. W-3239.

Dear Mr. Cartwright:

As directed by the order of this court, attached, we are enclosing, with Clerk's Certificate, the original partial transcript of proceedings had in the above case on August 28, 1964, as supplement to the record on appeal forwarded to you on March 25, 1965.

Very truly yours

Charles W. Cahill, Clerk

cc – Miss Anna Knoll
Mrs. Rose Keller
Collins Hughes Martin Pringle & Schell
Adams Jones Robinson & Manka
Mr. Richard B. Altman

APPENDIX R

Mobil Oil Company
A Division of Socony Mobil Oil Company, Inc.
P. O. BOX 900, DALLAS, TEXAS 75221

February 17, 1964

Miss Anna Knoll
1500 Massachusetts Ave., N. W.
Apartment 603
Washington 5, D. C.

6.20 - MJK - KNOLL LEASES
676223 - E/2 NE/4
676224 - SE/4
676225 - W/2 NE/4
ALL IN SECTION 10, T10S-R25W
GRAHAM COUNTY, KANSAS

Dear Miss Knoll:

In response to your long distance telephone request of this date, we advise that our records indicate first oil was run for our account from the subject leases as follows:

E/2 NE/4 - September 13, 1959
SE/4 - January 30, 1958
W/2 NE/4 - November 14, 1957

The files reflect you are entitled to proceeds for 1/32 of 1/8 royalty interest under the entire E/2 of Section 10, which amount to $509.79, $3,457.47 and $1,767.53 respectively, covering purchases through January 31, 1964.

Dates division orders were approved for payments are:

Alex Knoll)	May 11, 1960
Joe Knoll) Wendelin Knoll) Adam Knoll) Adolph Knoll)	June 8, 1960
Mary Bittel)	October 21, 1963
Margaret Sluga)	December 3, 1963.

Yours very truly,

R. B. LLOYD, Supervisor
Crude Oil Purchases and
Sales Accounting Section

BY: M. J. Krug

MJK:mw

APPENDIX S

Filed Feb. 18, 1965

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

Civil Action No. W-3363

SOCONY MOBIL OIL COMPANY, INC., a corporation, *Plaintiff*,

vs.

ANNA KNOLL; ROSE KELLER; ALEX KNOLL; JOSEPHINE KNOLL; JOE KNOLL; ADAM KNOLL; ADAM P. KNOLL; WENDELIN KNOLL; MARY BITTEL; ADOLPH KNOLL; ADOLPH C. KNOLL; STEPHANIE KNOLL; MARGARET SLUGA; HAROLD McCALL; HAROLD C. McCALL; EDWIN McCALL; EDWIN F. McCALL; HUGH FAULKNER, JR.; F. D. McCALL; CASEY JONES; ALBERT H. PRATT; VIRGIL PEMBLETON; GEORGE H. O'TOOLE; JOHN E. O'TOOLE; THEODORE GORE, ANDREW E. GORE and DAN J. KORNFELD, co-partners d/b/a EMPIRE DRILLING COMPANY; NATIONAL COOPERATIVE REFINERY ASSOCIATION, a corporation; L. W. MUIR; JOHN T. MUIR; RITA L. RAND, formerly Rita L. Gore, executrix of the estate of RALPH GORE, deceased, *Defendants*.

Complaint

1. This is a civil action of strict interpleader brought under authority of the provisions of 28 U.S.C.A. 1335. The value of the property in controversy in this action is Five Hundred Dollars or more as will hereinafter be more particularly explained. Jurisdiction herein is vested in this Court not only under the provisions of 28 U.S.C.A. 1335, but also as said statute is supplemented by the provisions of 28 U.S.C.A. 1397 and 2361, as well as Rule 22(2) of the Federal Rules of Civil Procedure.

2. Plaintiff, Socony Mobil Oil Company, Inc., hereinafter called "Socony Mobil", is a corporation organized and existing under the laws of the State of New York, having its principal place of business in that state, and authorized to do business in the State of Kansas as a foreign corporation, with an office at 300 North Broadway, Wichita, Kansas.

3. The citizenship and post office address of each of the respective defendants are as follows:

Anna Knoll is a citizen of the District of Columbia, with post office address 1500 Massachusetts Avenue, N. W., Washington, D. C.

Rose Keller is a citizen of the State of Illinois, with post office address West Thirty-third Street, Route One, Box 89, Zion, Illinois.

Alex Knoll and Josephine Knoll, husband and wife, are citizens of the State of Kansas, with post office address Morland, Kansas.

Joe Knoll is a citizen of the State of Kansas, with post office address 544 South Ninth Street, Salina, Kansas.

Adam Knoll is a citizen of the State of Kansas, with post office address Victoria, Kansas.

Adam P. Knoll is a citizen of the State of Kansas, with post office address Victoria, Kansas.

Wendelin Knoll is a citizen of the State of Kansas, with post office address Bunker Hill, Kansas.

Mary Bittel is a citizen of the State of Kansas, with post office address Rural Route Two, Great Bend, Kansas.

Adolph Knoll and Stephanie Knoll, husband and wife, are citizens of the State of Illinois, with post office address 2300 Ridgeland Avenue, Waukegan, Illinois.

Adolph C. Knoll and Stephanie Knoll, husband and wife, are citizens of the State of Illinois, with post office address 2300 Ridgeland Avenue, Waukegan, Illinois.

Margaret Sluga is a citizen of the State of Illinois, with post office address 1221 Washington Park, Waukegan, Illinois.

Harold McCall is a citizen of the State of Kansas, with post office address R.F.D. #1, Wakeeney, Kansas.

Harold C. McCall is a citizen of the State of Kansas, with post office address R.F.D. #1, Wakeeney, Kansas.

Edwin McCall is a citizen of the State of Kansas, with post office address R. F. D. #1, Wakeeney, Kansas.

Edwin F. McCall is a citizen of the State of Kansas, with post office address R. F. D. #1, Wakeeney, Kansas.

Hugh Faulkner, Jr. is a citizen of the State of Kansas, with post office address R.F.D. #2, Ogallah, Kansas.

F. D. McCall is a citizen of the State of Kansas, with post office R.F.D. #1, Wakeeney, Kansas.

Casey Jones is a citizen of the State of Kansas, with post office address Box 296, Hill City, Kansas.

Albert H. Pratt is a citizen of the State of Kansas, with post office address Hill City, Kansas.

Virgil Pembleton is a citizen of the State of Kansas, with post office address Box 818, Hill City, Kansas.

George H. O'Toole is a citizen of the State of Kansas, with post office address Collyer, Kansas.

John E. O'Toole is a citizen of the State of Kansas, with post office address Collyer, Kansas.

Theodore Gore is a citizen of the State of Kansas, with post office address 140 South Pershing Avenue, Wichita, Kansas.

Andrew E. Gore is a citizen of the State of Kansas, with post office address 140 South Pershing Avenue, Wichita, Kansas.

Dan J. Kornfeld is a citizen of the State of Kansas, with post office address 5102 Kings Row, Wichita, Kansas.

Theodore Gore, Andrew E. Gore and Dan J. Kornfeld are co-partners doing business as Empire Drilling Company, with offices in the Fourth National Bank Building, Wichita, Kansas.

National Cooperative Refinery Association is a Kansas corporation, with its principal place of business at McPherson, Kansas.

L. W. Muir is a citizen of the State of Kansas, with post office address 604 East Main, Norton, Kansas.

John T. Muir is a citizen of the State of Kansas, with post office address 610 North First, Norton, Kansas.

Rita L. Rand, formerly Rita L. Gore, executrix of the estate of Ralph Gore, deceased, is a citizen of the State of New York, with post office address 745 Fifth Avenue, New York 22, New York.

4. Plaintiff, "Socony Mobil", as the purchaser of the crude oil produced from the SE/4 of Section 10, Township 10 South, Range 25 West, Graham County, Kansas, has presently in its lawful possession a retained fund of $98,-964.24 covering the purchase price of such oil. That moneys accrue to said fund continuously on a month to month basis, by virtue of continuing purchases of said oil. That such fund has been retained and not paid or distributed by plaintiff to any of the parties which may be entitled thereto for the reason that there are existing adverse claims which must be determined before such proceeds, or any part thereof, may be distributed and paid to any party with safety by plaintiff.

5. That Theodore Gore, Andrew E. Gore and Dan J. Kornfeld, as co-partners d/b/a Empire Drilling Company, National Cooperative Refinery Association, a corporation, Rita L. Rand, formerly Rita L. Gore, as executrix of the estate of Ralph Gore, deceased, L. W. Muir and John T. Muir, as working interest holders, and Harold McCall or Harold C. McCall, Edwin McCall or Edwin F. McCall, Hugh Faulkner, Jr., F. D. McCall, Casey Jones, Albert H. Pratt, Virgil Pembleton, George H. O'Toole and John E. O'Toole, as overriding royalty holders, claim to own 7/8ths portion of such fund by reason of their alleged ownership of an oil and gas lease on and covering the SE/4 of said Section 10, and an overriding royalty created therein.

6. That Alex Knoll, Joe Knoll, Adam Knoll or Adam P. Knoll, Wendelin Knoll, Mary Bittel, Adolph Knoll or Adolph C. Knoll and Margaret Sluga contend that they are jointly the owners of 30/32 of 1/8th of such proceeds and fund aforementioned, as royalty interests accruing under valid oil and gas lease on all of the oil, gas and mineral interests in the SE/4 of said Section 10.

7. That Anna Knoll and Rose Keller each claim that they are respectively the owners of in excess of 1/32 of 1/8th of such proceeds and fund aforementioned.

8. By reason of the conflicting claims of said defendants as hereinbefore set forth, plaintiff herein, "Socony Mobil", is in great doubt as to who is entitled to the proceeds from said oil runs so suspended and withheld and under the circumstances as are narrated herein, is in great danger of being harassed, embarrassed and damaged by reason of such vexatious conflicting claims, and by reason thereof cannot with safety to itself make payment and distribution.

9. The total amount of such funds presently withheld from distribution and payment hereinabove referred to is

in the sum of $98,964.24, and plaintiff "Socony Mobil", under the circumstances narrated herein, has paid into the registry of this Court said sum of money so due said claimants to abide the judgment of this Court.

10. As evidenced by the foregoing paragraphs of this Complaint, there are at least two adverse claimants of diverse citizenship as defined by 28 U.S.C.A. 1332 who are claiming or may claim to be entitled to the subject matter of this controversy or to one or more of the benefits arising with respect to such fund as required by 28 U.S.C.A. 1335.

11. Such adverse claimants as hereinbefore described will, unless restrained therefrom, institute actions or prosecute pending proceedings involving the subject matter of this controversy in a state or United States Court affecting the property and res involved in this interpleader action.

WHEREFORE, plaintiff "Socony Mobil" respectfully demands:

(1) That each of the defendant parties to this action be required to interplead herein in connection with his or its respective right or claim to the subject matter in controversy and settle between themselves their respective rights to such fund and money so deposited with the Court herein and that plaintiff be discharged from all liability in the premises;

(2) That each of the defendants described herein parties to this action be restrained and enjoined from instituting or further prosecuting any action against this plaintiff involving the subject matter of this controversy and the fund and res paid into this Court until the further order of this Court, all as authorized by the provisions of 28 U.S.C.A. 2361; and

(3) Plaintiff recover its costs herein out of such fund, including a reasonable attorney's fee for services of its respective counsel rendered herein.

Ross Madole
Donald G. Canuteson
Richard B. Altman
P. O. Box 900
Dallas, Texas 75221

Adams, Jones, Robinson and Manka
503 Colorado-Derby Building
Wichita, Kansas 67202

By Mark H. Adams
Attorneys for Plaintiff

APPENDIX T

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

Civil Action No. W-3363

Socony Mobil Oil Company, Inc., a corporation, *Plaintiff*,

vs.

Anna Knoll, et al, *Defendants*.

Answer

Comes Now the defendant, National Cooperative Refinery Association, a corporation, and for its answer herein alleges and states that:

1. Each and every allegation of fact contained in the Complaint filed herein is admitted.

2. This defendant is entitled to 248/512 of 7/8 working interest in the oil and gas lease described in plaintiff's Complaint. A copy of the division order between plaintiff and this defendant is annexed hereto, marked Exhibit "A."

3. On March 20, 1959, Rose Keller, Anna Knoll, and Margaret Sluga filed Civil Action No. W-1811 in the United

States District Court for the District of Kansas against Alex Knoll. Neither this defendant nor any of the other holders of working interests in said oil and gas leases were made parties defendant. On August 22, 1959, said suit was dismissed with prejudice, upon a compromise and settlement of the controversy.

4. On July 24, 1964, Anna Knoll and Rose Keller filed a Complaint in Civil Action No. W-3239 in the United States District Court for the District of Kansas against Alex Knoll, Josephine Knoll, Joe Knoll, Adam Knoll, Wendelin Knoll, Mary Bittel, Adolph Knoll, Stephanie Knoll, Margaret Sluga, Casey Jones, and Mobil Oil Company. Neither this defendant nor the other defendants who hold working interests in said leases were made parties to that action. On December 10, 1964, said action was dismissed for want of federal jurisdiction, and plaintiffs duly filed their notice of appeal.

5. This defendant is entitled to its proportionate share, as shown by the division order, of the moneys accumulated by plaintiff and for future moneys accumulated by plaintiff, unless Civil action No. W-3239 is expanded to include this defendant as a party defendant in that action.

WHEREFORE, this defendant demands:

1. That this defendant receive its proportionate share of the money paid into Court by plaintiff.

2. That the Court enter an order that all future moneys received by plaintiff be paid to this defendant in its proportionate share until further order of the Court.

3. This defendant have judgment for its costs herein.

Richard A. Loyd

Of JOCHEMS, SARGENT & BLAES
Attorneys for National Cooperative
Refinery Association

FORM 372 - 8-9-57

DIVISION ORDER

TO: MOBIL CRUDE PURCHASING COMPANY, INC.
300 NORTH BROADWAY
WICHITA 2, KANSAS

Effective 7:00 A.M. January 30, 1958

The undersigned guarantee and warrant that they are the legal owners of the hereinafter described interests in the crude oil produced from the 34990 - Knoll "A" lease, described as:

The Southeast Quarter (SE/4) of Section Ten (10), Township Ten (10) South, Range Twenty-five (25) West,

in Graham County, State of Kansas, and until further notice by the undersigned, their executors, administrators, successors and/or assigns you are authorized to receive oil therefrom and purchase same under the following terms and conditions:

OWNERSHIP

CREDIT TO	DIVISION OF INTEREST	POST OFFICE ADDRESS (GIVE BOX NUMBER OR STREET ADDRESS AND ZONE NUMBER)
Empire Drilling Company, a partnership	124/512 of 7/8 W. I.	650 Fourth Nat'l. Bk. Bldg. Wichita 2, Kansas
National Cooperative Refinery Association	248/512 of 7/8 W. I.	Box 770 McPherson, Kansas
L. W. Muir	62/512 of 7/8 W. I.	604 East Main Norton, Kansas
John T. Muir	62/512 of 7/8 W. I.	610 North First Norton, Kansas

TERMS AND CONDITIONS

1. Quantities are to be computed using regularly compiled tank tables, any oil owner to have on request the privilege of witnessing gauge tickets. Quantity shall be adjusted for temperature and impurities deducted according to your local field rules in force at the time, and oil may be steamed when necessary to render it merchantable.

2. Satisfactory abstracts and other evidence of title will be furnished you on request at any future time. In the event of failure to so furnish such evidence of title, or in the event of a dispute at any time concerning ownership, the proceeds of any oil run hereunder may be held without interest, until such dispute, defect or question of title is correct or removed to your satisfaction, or until satisfactory indemnity has been furnished you. Each of the undersigned further agrees to notify you of any suit or action filed in any court affecting title to his interest.

3. Unless stipulated in writing otherwise, oil received under this division order shall become your property when delivered to the pipe line or other facilities designated by you, and shall be paid for to the interest owners as shown above at the price posted by Mobil Crude Purchasing Company, Inc. for oil of like grade and kind in the particular field and on the day in which it is received into your custody. Settlement shall be made monthly by mailing or delivering to each owner herein specified, their heirs, successors, assigns, or legal representatives on or before the 16th of each month a bank check or draft for the amount due on account of oil so purchased during the preceeding month.

4. You are not expected to receive oil in definite quantities nor for fixed periods nor to provide storage on the credit balance plan or otherwise except as and when elsewhere agreed in writing.

5. Sellers severally agree to notify you of any change of their ownership; it being understood that any assignee or vendee of the production from the property shall take same subject to terms hereof. You are hereby relieved of any responsibility for determining when any of the above interests shall be assigned, or shall increase, diminish, be extinguished or revert to other parties as a result of the completion or discharge of money or other payments from said interest, or as a result of the increase or decrease in production, and you are hereby authorized to continue to remit, pursuant to the above division of interest, until you receive notice in writing to the contrary by mail. You shall be held harmless in the event said written notice is not received and are hereby relieved of any responsibility for loss arising out of any over-payment as a result of the failure to receive said written notice.

6. When a pipe line is not directly available to the property and handling by truck is necessary, trucking costs involved may be deducted from the proceeds accruing from the oil owned and sold by each interest owner.

7. The undersigned operators and/or owners warrant that all oil delivered hereunder will be produced in accordance with all applicable laws and/or official rules and regulations.

8. Each of the undersigned hereby authorizes you to deduct and make payment of any and all production and other taxes imposed by any governmental agency upon the respective interests of the undersigned in the crude oil produced and purchased from the above described land.

9. This Division Order, which may be executed in counterparts, shall be binding upon each of the undersigned as soon as signed by him or her, regardless of whether or not same is signed by any of the other above named persons, and shall inure to the benefit of and be binding upon the heirs, successors and assigns of the undersigned.

WITNESS:

OWNERS' SIGNATURES:

x Hazel Pierson

x Virgil Pierson

EMPIRE DRILLING COMPANY, A PARTNERSHIP

By: Thurman Sow

By: Wm D Langford

ATTEST:

L. V. Taylor
Asst. SECRETARY

NATIONAL COOPERATIVE REFINERY ASSOCIATION

By: Ralph Booker
Executive PRESIDENT

x Claudia R. Bridges

x Claudia R. Bridges

x

L. W. Muir

x John T. Muir
John T. Muir

APPENDIX U

ROBERT R. FREEMAN
ATTORNEY AT LAW
821 UNION NATIONAL BUILDING
WICHITA, KANSAS 67202
AREA CODE 316 FORREST 3-2226

September 14, 1965

Miss Anna Knoll
1500 Massachusetts Ave. NW
Apartment 605
Washington, D.C. 20005

Dear Miss Knoll:

Enclosed are copies of the Answers filed on behalf of Empire Drilling Company and others in Cases No. W-3362 and W-3363.

I regret that these Answers were not received by you when filed, and trust that there is nothing therein to which you can take exception for the reason that the entire title and claim of my client's is based upon the public records.

Very truly yours,

Robert R. Freeman

RRF/jr

Enclosures

CC: Mrs. Rose Keller
(with enclosures)

APPENDIX U

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

CIVIL ACTION No. W-3362

SOCONY MOBIL OIL COMPANY, INC., a corporation, *Plaintiff*,

vs.

ANNA KNOLL, ET AL, *Defendants*.

Answer of Defendants Theodore Gore, Andrew E. Gore and Dan J. Kornfeld, Co-Partners d/b/a Empire Drilling Company, and Rita L. Rand, Formerly Rita L. Gore, Executrix of the Estate of Ralph Gore, Deceased

COME Now defendants Theodore Gore, Andrew E. Gore and Dan J. Kornfeld, co-partners d/b/a Empire Drilling Company, and Rita L. Rand, formerly Rita L. Gore, executrix of the estate of Ralph Gore, deceased, and for their answer to plaintiff's complaint filed herein, allege and state:

1. That they admit each and all of the allegations of fact contained in said complaint.

2. That by way of further answer to said complaint, these defendants allege:

(a) That Rosa Knoll died intestate on December 13, 1941, vested with the fee title to the

> East Half (E/2) of Section 10, Township 10 South, Range 25 West of the 6th P.M., Graham County, Kansas;

that thereafter and on or about August 4, 1942 Anna Knoll, Rose Keller and all of the other heirs-at-law of Rosa Knoll, and their respective spouses, quitclaimed, for valuable consideration, the East Half (E/2) of said Section 10 to Adolph Knoll, which quitclaim deed was thereafter recorded on the 17th day of November, 1942, in Book 62, at Pages 290-291 of the Deed Records of Graham County, Kansas, and by reference to such recording made a part

hereof; that thereafter and under date of February 21, 1951 Adolph Knoll, a/k/a Adolph C. Knoll, and Stephanie D. Knoll, his wife, for a valuable consideration, executed and delivered to Alex Knoll a warranty deed covering the Northeast Quarter (NE/4) of said Section 10, which warranty deed was thereafter recorded on August 2, 1951 in Book 70 of Deeds, Page 102 of the Graham County, Kansas records, and by reference to such recording, is made a part hereof.

(b) That thereafter and on June 29, 1951 Alex Knoll (the then *fee title owner*) and Josephine Knoll, his wife, as lessors, for valuable consideration, made, executed, acknowledged and delivered to Casey Jones, as lessee, an oil and gas lease on and covering the Northeast Quarter (NE/4) of said Section 10, which lease was thereafter filed for record on July 10, 1951, and recorded in Book 44 of O. & G., Page 142 of the Graham County, Kansas records. That a true and correct copy of said oil and gas lease is attached hereto, marked Exhibit "A", and made a part hereof. That in the acquisition of such oil and gas lease Casey Jones, as the lessee therein, was an innocent purchaser for value, without notice of any adverse claim to the title of Alex Knoll to the land covered thereby.

(c) That by mesne assignments:

(1) Dated July 10, 1951, recorded in Book 41 of O. & G., Page 560 of the Graham County records from Casey Jones to J. A. Terteling & Sons, as to all of the interest in such lease;

(2) January 25, 1957 from J. A. Terteling & Sons to Terteling Land Company, recorded in Book 63 of O. & G., Page 123, as to all of the interest in such lease;

(3) Corrected assignment dated December 9, 1957 from Terteling Land Company to Empire Drilling Company and National Cooperative Refinery Association, in equal shares, recorded in Book 66 of O. & G., Pages 425-426 of the Graham County, Kansas records, assigning such lease, insofar as it covers the W/2 of

the NE/4 of said Section 10, subject to assignor's reservation of an overriding royalty of 1/16 of 7/8 of all oil, gas and casinghead gas produced, saved and marketed from the W/2 NE/4 of said Section 10.

(4) November 22, 1957 from Empire Drilling Company to Ralph Gore, recorded in Book 65 of O. & G., Page 7 of the Graham County, Kansas records, with respect to a 1/6 interest in said lease, insofar as it covered the W/2 NE/4 of said Section 10, such assigned interest being subject to its' proportionate part of an overriding royalty of 1/16 of 7/8 of all oil, gas and casinghead gas. This 1/6 interest has under the Will of Ralph Gore, now deceased, passed to and vested in his wife, Rita L. Gore, who has remarried and is now of the name, Rita L. Rand.

(d) That as innocent purchasers, for value, without notice of any adverse claims on the part of Anna Knoll, Rose Keller, or any other person, Empire Drilling Company, Ralph Gore, and National Cooperative Refinery Association assumed the financial risks with respect to the drilling and completion for production of a well which was completed for the production of oil in commercial quantities on the W/2 NE/4 of said Section 10 on or about November 2, 1957, and promptly thereafter and on November 22, 1957, in compliance with the General Statutes of Kansas, 1949, Section 55-205, filed Affidavit of Production in Book 66 of O. & G., Page 359 of the Graham County, Kansas records; that by reason of such production of oil in paying quantities from said lands, which has been continuous from the date of the Completion of the first well thereon, said oil and gas lease, Exhibit "A" hereto, being recorded in Book 44 at Page 142 of the Graham County, Kansas records, has been and is perpetuated by such production.

(e) That said lease on the W/2 NE/4 of said Section 10 was thereafter completely developed by the drilling, equipping and placing on production of three additional

oil wells, their completion dates being respectively February 10, 1959, March 25, 1959, and June 26, 1960; that such drilling, testing and completing of wells on such property required expenditures of answering defendants of approximately $116,636.04.

(f) That the development of said lands for the production of oil was necessary to avoid uncompensated drainage therefrom and to comply with the implied covenants in said oil and gas lease thereon; that at all times since the commencement of the operations for the drilling of a test well for oil on said property resulting in production as aforementioned, Empire Drilling Company has by agreement with the owners of other working interests in said oil and gas lease, insofar as it covers the W/2 NE/4 of said Section 10, acted and is presently acting as operator thereof; that the services which it has performed and is performing as operator are necessary and essential to the prevention of waste and drainage of oil therefrom; that the operations so conducted by said operator on said premises have in all respects been conducted prudently and in the best practices in effect by operators in the oil and gas industry in the area involved.

(g) That upon production of oil from said land having been procured as above stated, in compliance with the implied obligation on the oil and gas lease working interest holders, they have marketed such oil to Socony Mobil Oil Company, Inc., and the proceeds from such production to which these answering defendants were entitled prior to July 1, 1964 were properly distributed and paid; that the fund involved in this action relates to proceeds from production subsequent to July 1, 1964, as well as undistributed suspense funds held for Anna Knoll and Rose Keller.

(h) That thereafter on March 20, 1959 Rose Keller, Anna Knoll and Margaret Sluga filed Civil Action No. W-1811 in the United States District Court for the District of Kansas against Alex Knoll, contending that his title to

the E/2 of said Section 10 was held in trust for the benefit and use of said plaintiffs and other heirs of their mother's estate; that in said action there was no complaint or challenge of the acts of Alex Knoll and his wife, Josephine Knoll, in their making, execution, acknowledgment and sale of the oil and gas leases to Casey Jones, and in particular to said lease attached hereto as Exhibit "A": that thereafter under date of August 22, 1959, agreement was entered into by all of the heirs of Rosa Knoll, deceased, compromising and settling the controversy as to the title to the E/2 of said Section 10 in which there is recitation as a fact that,

> "the Southeast Quarter (SE/4) of the above described property is subject to an oil and gas lease from Second Parties (Alex Knoll and Josephine Knoll) to Casey Jones, dated July 16, 1954, and filed November 19, 1954, in Book 56 of O. & G., at Page 21, in the office of the Register of Deeds in and for Graham County, Kansas, and an oil and gas lease covering the Northeast Quarter (NE/4) of Section 10, Township 10 South, Range 25 West, Graham County, Kansas, from Second Parties (Alex Knoll and Josephine Knoll) to Casey Jones, dated June 29, 1951 and filed July 10, 1951, in Book 44 of O. & G., at Page 142, in the office of the Register of Deeds in and for Graham County, Kansas";

that the consideration specified in such agreement for such settlement was the execution, acknowledgment and delivery by Alex Knoll and Josephine Knoll, his wife, of conveyances to the other heirs-at-law of Rosa Knoll, deceased, of an assignment of 1/4 of 1/8 oil and gas royalty (accruing under the existing oil and gas leases referred to in such agreement), with respect to said lands, constituting 1/250 interest in 8/8 of the oil and gas production to each of said parties, effective at 7:00 A.M., August 1, 1959; that such conveyances of such royalty required by such agreement were so made as follows:

> Covering the NE/4 of said Section 10, dated July 23, 1959, and recorded July 28, 1959 in Book 72 at Page 166 of Leases in the office of the Register of Deeds of Graham County, Kansas, and

Covering the SE/4 of said Section 10, dated July 23, 1959, and recorded July 28, 1959, in Book 72 at Page 165 of Leases in the office of the Register of Deeds of Graham County, Kansas;

that pursuant to the agreement of such parties, on August 31, 1959, the Court found that the parties to such action had "amicably settled their differences by virtue of an agreement whereby the defendant conveyed a 1/32 of his royalty interest in the oil and gas leases presently in effect . . . to each of his brothers and sisters, including Joe Knoll, Adam Knoll, Adolph Knoll, Wendelin Knoll, Mary Bittel, Anna Knoll, Margaret Sluga and Rose Keller, the latter three being the Plaintiffs . . ." and entered order dismissing the suit, with prejudice.

(i) That thereafter under date of July 24, 1964, Anna Knoll and Rose Keller filed their complaint in Civil Action No. W-3239 in the United States District Court for the District of Kansas against Alex Knoll, Josephine Knoll, Joe Knoll, Adam Knoll, Wendelin Knoll, Mary Bittel, Adolph Knoll, Stephanie Knoll, Margaret Sluga, Casey Jones and Mobil Oil Company, in which they generally challenge the title of the defendants and seek a determination of the interests of all of the parties to the action in the E/2 of Section 10, Township 10 South, Range 25 West of the 6th P.M., Graham County, Kansas; that these answering defendants were not made parties to that action; that under date of December 10, 1964, such action was dismissed for want of federal jurisdiction.

(j) That defendants Anna Knoll and Rose Keller are guilty of laches if by their acts and conduct they intend to challenge the rights of answering defendants with respect to the oil and gas lease insofar as it covers the W/2 NE/4 of said Section 10.

WHEREFORE, and by reason of the foregoing, answering defendants pray that the Court find and determine:

1. That Anna Knoll and Rose Keller are guilty of laches if by their acts and conduct they intend to challenge the

rights of answering defendants with respect to the oil and gas lease covering the W/2 NE/4 of said Section 10;

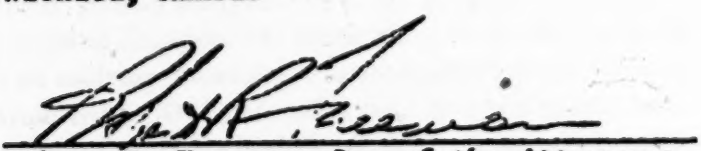
2. That the respective interests of the answering defendants, and the title thereto, in oil and gas lease recorded in Book 44 O. & G., Page 142 of the Graham County, Kansas records, insofar as it covers the W/2 NE/4 of Section 10, Township 10 South, Range 25 West of the 6th P.M., Graham County, Kansas, as set forth in this answer be, and in them quieted as against all of the parties to this action;

3. That this Court permanently enjoin each and all of the parties to this action from any future challenges to the validity of these answering defendant's title in said oil and gas lease above described;

4. That these answering defendants be determined and declared to be entitled to their respective proportions of the fund herein created by proceeds from oil produced and sold from the W/2 NE/4 of said Section 10;

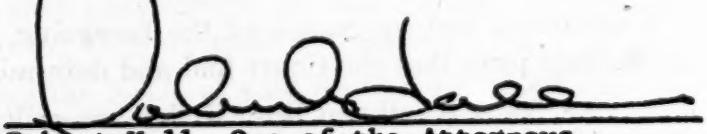
5. That these answering defendants have their costs and such other relief as they may be entitled.

ROBERT R. FREEMAN, Attorney At Law
821 Union National Building
Wichita, Kansas



Robert R. Freeman, One of the Attorneys
for Answering Defendants

ROBERT HALL, Attorney At Law
120 Building
Wichita, Kansas



Robert Hall, One of the Attorneys
for Answering Defendants

APPENDIX U

Form 88-- (Producers) 2-48 B+ **OIL AND GAS LEASE** #405

KANSAS PUBLISHING CO.

AGREEMENT, Made and entered into this 29th day of June, 19 51, by and between

Alex Knoll and his wife, Josephine Knoll

Party of the first part, hereinafter called lessor (whether one or more) and

Casey Jones Part Y of the second part, hereinafter called lessee.

WITNESSETH, That the said lessor, for and in consideration of ----One and no/100----- DOLLARS, cash in hand paid, receipt of which is hereby acknowledged, and of the covenants and agreements hereinafter contained on the part of lessee to be paid, kept and performed, has granted, demised, leased and let and by these presents does grant, demise, lease and let unto said lessee, for the sole and only purpose of mining and operating for oil and gas, and laying pipe lines, and building tanks, power stations and structures thereon to produce, save and take care of said products, all that certain tract of land together with any reversionary rights therein, situated in the County of Graham State of Kansas, described as follows, to wit:

The Northeast Quarter

of Section 10 Township 10 S Range 25 W and containing 160 acres more or less.

It is agreed that this lease shall remain in full force for a term of ten years from this date, and as long thereafter as oil or gas, or either of them, is produced from said land by the lessee, or the premises are being developed or operated.

In consideration of the premises the said lessee covenants and agrees:

1st. To deliver to the credit of lessor, free of cost, in the pipe line to which lessee may connect his wells, the equal one-eighth (⅛) part of all oil produced and saved from the leased premises.

2nd. The lessee shall pay to lessor for gas produced from any oil well and used by the lessee for the manufacture of gasoline or any other product as royalty ⅛ of the market value of such gas at the mouth of the well; if said gas is sold by the lessee, then as royalty ⅛ of the proceeds of the sale thereof at the mouth of the well. The lessee shall pay lessor as royalty ⅛ of the proceeds from the sale of gas as such at the mouth of the well where gas only is found and where such gas is not sold or used, lessee shall pay or tender annually at the end of each yearly period during which such gas is not sold or used as royalty, an amount equal to the delay rental provided in the next succeeding paragraph hereof, and while said royalty is so paid or tendered this lease shall be held as a producing lease under the above term paragraph hereof; the lessor to have gas free of charge from any gas well on the leased premises for stoves and inside lights in the principal dwelling house on said land by making his own connections with the well, the use of such gas to be at the lessor's sole risk and expense.

If operations for the drilling of a well be not commenced on said land on or before June 29th, 19 52, this lease shall terminate as to both parties, unless the lessee on or before that date shall pay or tender to the lessor, or to the lessor's credit in The Citizens State Bank at Morland, Kansas, or its successors, which shall continue as the depository regardless of changes in the ownership of said land, the sum of ---------One hundred sixty--------- DOLLARS, which shall operate as a rental and cover the privilege of deferring the commencement of a well for twelve months from said date. In like manner and upon like payments or tenders the commencement of a well may be further deferred for like periods or the same number of months successively. All such payments or tenders of rental may be made by check or draft of lessee or any assignee thereof, mailed or delivered on or before the rental paying date either direct to lessor or assigns or to said depository bank. And it is understood and agreed that the consideration first recited herein, the down payment, covers not only the privileges granted to the date when said first rental is payable as aforesaid, but also the lessee's option of extending that period as aforesaid, and any and all other rights conferred. Lessee may at any time execute and deliver to Lessor, or place of record, a release or releases covering any portion or portions of the above described premises and thereby surrender this lease as to such portion or portions and be relieved of all obligations as to the acreage surrendered, and thereafter the rentals payable hereunder shall be reduced in the proportion that the acreage covered hereon is reduced by said release or releases.

Should the first well drilled on the above described land be a dry hole, then, and in that event, if a second well is not commenced on said land within twelve months from expiration of the last rental period for which rental has been paid, this lease shall terminate as to both parties, unless the lessee on or before the expiration of said twelve months shall resume the payment of rentals in the same amount and in the same manner as hereinbefore provided. And it is agreed that upon the resumption of the payment of rentals, as above provided, that the last preceding paragraph hereof, governing the payment of rentals and the effect thereof, shall continue in force just as though there had been no interruption in the rental payments.

If said lessor owns a less interest in the above described land than the entire and undivided fee simple estate therein, then the royalties and rentals herein provided shall be paid the lessor only in the proportion which his interest bears to the whole and undivided fee. However, such rental shall be increased at the next succeeding rental anniversary after any reversion occurs to cover the interest so acquired.

Lessee shall have the right to use, free of cost, gas, oil, and water produced on said land for its operation thereon, except water from wells of lessor.

When requested by lessor, lessee shall bury his pipe lines below plow depth.

No well shall be drilled nearer than 200 feet to the house or barn now on said premises, without the written consent of the lessor.

Lessee shall pay for damages caused by its operations to growing crops on said land.

Lessee shall have the right at any time to remove all machinery and fixtures placed on said premises, including the right to draw and remove casing.

If the lessee shall commence operations to drill a well within the term of this lease or any extension thereof, the lessee shall have the right to drill such well to completion with reasonable diligence and dispatch, and if oil or gas, or either of them, be found in paying quantities, this lease shall continue and be in force with the like effect as if such well had been completed within the term of years herein first mentioned.

If the estate of either party hereto is assigned, and the privilege of assigning in whole or in part is expressly allowed, the covenants hereof shall extend to their heirs, executors, administrators, successors or assigns, but no change in the ownership of the land or assignment of rentals or royalties shall be binding on the lessee until after the lessee has been furnished with a written transfer or assignment or a true copy thereof; and it is hereby agreed in the event this lease shall be assigned as to a part or as to parts of the above described lands and the assignee or assignees of such part or parts shall fail or make default in the payment of the proportionate part of the rents due from him or them on an acreage basis, such default shall not operate to defeat or affect this lease in so far as it covers a part or parts of said lands upon which the said lessee or any assignee thereof shall make due payments of said rentals. If the leased premises are now or hereafter owned in severalty or in separate tracts, the premises, nevertheless, may be developed and operated as an entirety, and the royalties shall be paid to each separate owner in the proportion that the acreage owned by him bears to the entire leased area. There shall be no obligation on the part of the lessee to offset wells on separate tracts into which the land covered by this lease is now or may hereafter be divided by sale, devise, or otherwise, or to furnish separate measuring or receiving tanks for the oil produced from such separate tracts.

Lessor hereby warrants and agrees to defend the title to the lands herein described, and agrees that the lessee shall have the right at any time to redeem for lessor by payment, any mortgages, taxes or other liens on the above described lands, in the event of default of payment by lessor, and be subrogated to the rights of the holder thereof.

Whereof witness our hands as of the day and year first above written.

Witness to the mark:

Alex Knoll (SEAL)

Josephine Knoll (SEAL)

(SEAL)

(SEAL)

(SEAL)

(SEAL)

85a

STATE OF Kansas
COUNTY OF Greeley } ss. ACKNOWLEDGMENT FOR INDIVIDUAL (Kans. Okla. and Colo.)

Before me, the undersigned, a Notary Public, within and for said County and State, on this 29th day of June, 1951, personally appeared Alex Knoll and his wife, Josephine Knoll

to me personally known to be the identical person s who executed the within and foregoing instrument and acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year last above written.

My commission expires Dec. 11, 1952

Notary Public

STATE OF
COUNTY OF } ss. ACKNOWLEDGMENT FOR INDIVIDUAL (Kans. Okla. and Colo.)

Before me, the undersigned, a Notary Public, within and for said County and State, on this
day of , 19 , personally appeared
and

to me personally known to be the identical person who executed the within and foregoing instrument and acknowledged to me that executed the same as free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year last above written.

My commission expires

Notary Public

STATE OF
COUNTY OF } ss. ACKNOWLEDGMENT FOR CORPORATION

Be it remembered that on this day of , 19 , before me, the undersigned, a Notary Public, duly commissioned, in and for the county and state aforesaid, came
, president of
a corporation of the State of , personally known to me to be such officer, and to be the same person who executed as such officer the foregoing instrument of writing in behalf of said corporation, and he duly acknowledged the execution of the same for himself and for said corporation for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the day and year last above written.

My commission expires

Notary Public

KN-11

OIL AND GAS LEASE

FROM Alex Knoll et ux

TO Casey Stroud

Date , 19
Section Twp Rge
No. of Acres INDIRECT
NUMERICAL
Original Company
with corp

STATE OF Kansas } ss:
County of Graham

This instrument was filed for record on the 10 day of July, 19 51 at 3:45 o'clock P M., and duly recorded in Book 141 Page 312 of the records of this office.

Register of Deeds.

By

When recorded, return to

THE KANSAS BLUE PRINT CO.
141 NORTH MARKET ST. WICHITA, KANSAS
PHOTOSTAT SERVICE BLUE-PRINTS OIL MAPS

NOTE: When signature by mark in Kansas, said mark to be witnessed by at least one person and also acknowledged. For acknowledgment by mark, use regular Kansas acknowledgment.

STATE OF
COUNTY OF } ss. ACKNOWLEDGMENT FOR INDIVIDUAL (Kans. Okla. and Colo.)

Before me, the undersigned, a Notary Public, within and for said County and State, on this
day of , 19 , personally appeared
and

to me personally known to be the identical person who executed the within and foregoing instrument and acknowledged to me that executed the same as free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year last above written.

My commission expires

Notary Public

APPENDIX V

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

Consolidated Civil Actions
Nos. W-3361, W-3362 and W-3363

SOCONY MOBIL OIL COMPANY, INC., a Corporation, *Plaintiff*

vs.

ANNA KNOLL, ET AL., *Defendants*

Affidavit in Regard to Violation of Constitutional Rights of Anna Knoll and Rose Keller

A notice dated February 21, 1966 was sent airmail by the Clerk of the United States District Court for the District of Kansas, to Anna Knoll in Washington, D. C. so she would receive it just before the hearing to be held on February 25, 1966 on the motion of Rose Keller that Judge Wesley E. Brown disqualify himself in the above cases.

Anna Knoll, the undersigned, was not served answering briefs 24 hours before the hearing as required by the rules of the Court for the United States District Court for the District of Kansas.

Anna Knoll, the undersigned, states that Judge Wesley E. Brown has already prejudged the above entitled cases in favor of Socony Mobil, Casey Jones, Empire Drilling Company, National Cooperative Refinery Association, etc. Anna Knoll's statements regarding Judge Wesley E. Brown's prejudice against her and Rose Keller are on file in the above cases.

It is unconstitutional for Judge Wesley E. Brown to give away the inheritance of Anna Knoll, the undersigned, and the inheritance of Rose Keller, as he intends to do in the above entitled cases.

On February 28, 1966 a copy of this affidavit was sent postage prepaid to each of the following:

Mr. Richard A. Loyd
Jochems, Sargent
& Blaes
Attorneys at Law
500 Farmers &
Bankers Bldg.
Wichita, Kansas

Mr. Mark Adams II
Adams, Jones, Robinson
& Manka
Colorado-Derby Bldg.
Wichita, Kansas

Mrs. Rose Keller
Route 1, Box 89
West 33rd Street
Zion, Illinois

Collins, Hughes, Martin,
Pringle & Schell
Attorneys at Law
1400 Wichita Plaza
Wichita, Kansas

Mr. Robert R. Freeman
Attorney at Law
Union National Bldg.
Wichita, Kansas

ANNA KNOLL,
Anna Knoll—*pro se*
1500 Massachusetts Ave., N.W.
Washington, D. C. 20005

SUBSCRIBED AND SWORN to before me this 28 day of February 1966.

(SEAL)

OLIVER H. WHIPP
825 15th St., N.W.

My Commission Expires July 31, 1970